

Journal of the Senate

SIXTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Saturday, May 1, 2004—10:00 a.m.

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

Heavenly Father,

I believe You expect all of us, whether legislators or not, to be the best person we can be. But how do we go about being our best?

Jesus said that the greatest commandments are: "Love the Lord your God with all your heart, soul, strength, and mind...and love your neighbor as yourself." When asked, "And who is my neighbor?" Jesus told the story of the Jewish man who received aid and comfort from a wounded Samaritan, who was the sworn enemy of the Jews (Luke 10:25-37).

O God, I believe that the biggest test as to whether we are being our best is how we treat those whom we disagree with, dislike, and even consider our enemies.

In His "Sermon on the Mount" Jesus said the way to show that we are children of our heavenly Father is to love our enemies and pray for those who persecute us. (Matthew 5:43-45)

Help us, Lord, to become that kind of loving person.

I pray in the Name of Jesus,

AMEN

CHANGE OF REFERENCE

The President withdrew **HB 2605** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Elections and Local Government.

The President withdrew **HB 2703** from the Committee on Assessment and Taxation, and referred the bill to the Committee on Utilities.

MESSAGE FROM THE HOUSE

Announcing passed of **HB 2947**, **HB 2948**, **HB 2949**.

Also, passage of **SB 12**, as amended by **House Substitute for SB 12**; **SB 395**, as amended by **House Substitute for SB 395**.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 536** and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2947, **HB 2948**, **HB 2949** were thereupon introduced and read by title.

REFERENCE OF HOUSE BILLS

The President referred **HB 2947**, **HB 2948**, **HB 2949** to the Committee of the Whole.

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: **H Sub for SB 12; HB 2027, HB 2067.**

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Morris moved the Senate concur in house amendments to **H Sub for SB 12.**

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

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 Senate concurred.

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **H Sub for SB 395** and requested a conference committee be appointed.

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2027**, submits the following report:

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

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

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 35 and inserting the following:

"Section 1. K.S.A. 2003 Supp. 72-978 is hereby amended to read as follows: 72-978.

(a) ~~(4)~~ In each school year, ~~in accordance with appropriations for special education and related services provided under this act, each school district which has school districts which~~ have provided special education and related services in compliance with the provisions of this act shall be entitled to receive *state aid in an amount which shall be computed by the state board as provided in this section. The state board shall:*

(1) *Determine the total amount of general fund and local option budgets of all school districts for the preceding school year;*

(2) *subtract from the amount determined in provision (1) the total amount attributable in the preceding school year to assignment of transportation weighting, program weighting and at-risk pupil weighting to enrollment of all school districts in such school year;*

(3) *divide the remainder obtained in provision (2) by the total number of pupils enrolled in all school districts on September 20 of the preceding school year;*

(4) *determine the total full-time equivalent enrollment of exceptional children in special education services provided by all school districts in the preceding school year;*

(5) *multiply the amount of the quotient obtained in provision (3) by the full-time equivalent enrollment determined in provision (4);*

(6) *determine the amount of federal funds received by all school districts for the provision of special education services in the preceding school year;*

(7) *determine the amount of revenue received by all school districts in the preceding school year for services rendered under contracts with the state institutions for the provisions of special education services by the state institution;*

(8) *add the amounts determined under (6) and (7) to the amount of the product obtained under (5);*

(9) *determine the total amount of expenditures of all school districts for the provision of special education services in the preceding school year;*

(10) subtract the amount of the sum obtained under (8) from the amount determined under (9);

(11) The amount computed under paragraph (10) is the amount of state special education aid school districts are entitled to receive for the provision of special education services.

(b) Each school district shall be entitled to receive:

~~(A)~~ (1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

~~(B)~~ (2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

~~(C)~~ (3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

~~(D)~~ (4) except for those school districts entitled to receive reimbursement under subsection ~~(b)~~ or (c) or (d), after subtracting the amounts of reimbursement under paragraphs ~~(A)~~, ~~(B)~~ and ~~(C)~~ (1), (2) and (3) of this subsection ~~(a)~~ (b) from the total amount appropriated of state aid for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

~~(E)~~ Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as $\frac{2}{3}$ full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

~~(F)~~ (c) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection ~~(a)(1)(D)~~ (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

~~(G)~~ (d) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection ~~(a)(1)(D)~~ (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

~~(H)~~ (e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of

special education services by such state institution shall be counted in making computations under this section.

Sec. 2. K.S.A. 72-979 is hereby amended to read as follows: 72-979. (a) Payments under this act shall be made in the manner and at such times during each school year as are determined by the state board. All amounts received by a district under this section shall be deposited in the general fund of the district and transferred to its special education fund. If any district is paid more than it is entitled to receive ~~under any distribution made under this act~~ *as state aid for the provision of special education services*, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. If any such district fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to such district. If any district is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year. *If the amount of appropriations for special education services is insufficient to pay in full the amount of state aid each school district is entitled to receive for the school year, the state board shall prorate the amount appropriated among all school districts.*

(b) The state board shall prescribe all forms necessary for reporting under this act.

(c) Every board shall make such periodic and special reports of information to the state board as it may request in order to carry out its responsibilities under this act.

Sec. 3. K.S.A. 72-6410 is hereby amended to read as follows: 72-6410. (a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) (1) "Base state aid per pupil" means an amount of state financial aid per pupil. ~~Subject to the other provisions of this subsection, the amount of base state aid per pupil is \$3,890.~~

(2) *Subject to the provisions of paragraph (3) of this subsection:*

(A) *For school year 2003-2004, the amount of base state aid per pupil shall be \$3,863.*

(B) *For school year 2004-2005, and each school year thereafter, the amount of base state aid per pupil shall be \$3,963.*

(3) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes

Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto, and an amount equal to 75% of the federal impact aid of the district.

(d) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 4. K.S.A. 72-6413 is hereby amended to read as follows: 72-6413. The program weighting of each district shall be determined by the state board as follows:

(a) Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by ~~0.2~~ .22;

(b) compute full time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;

(c) add the products obtained under ~~(a) and (b)~~ subsections (a) and (b). The sum is the program weighting of the district.

~~(d) The provisions of this section shall take effect and be in force from and after July 1, 1992.~~

Sec. 5. K.S.A. 72-6414 is hereby amended to read as follows: 72-6414. (a) The at-risk pupil weighting of each district shall be determined by the state board ~~by multiplying as follows:~~

(1) multiply the number of at-risk pupils included in enrollment of the district by ~~10~~ .15.

(b) The product *obtained under subsection (a)* is the at-risk pupil weighting of the district.

~~(c)~~ (c) Except as provided in subsection ~~(c)~~ (e), of the amount a district receives from the at-risk pupil weighting, an amount produced by a pupil weighting of .01 shall be used by the district for achieving mastery of basic reading skills by completion of the third grade in accordance with standards and outcomes of mastery identified by the state board under K.S.A. 72-7534, and amendments thereto.

~~(d)~~ (d) A district shall include such information in its at-risk pupil assistance plan as the state board may require regarding the district's remediation strategies and the results thereof in achieving the third grade reading standards and outcomes of mastery identified by the state board. The reporting requirements shall include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the second grade diagnostic reading test prescribed by the state board.

~~(e)~~ (e) A district whose pupils substantially achieve the state board standards and outcomes of mastery of reading skills upon completion of third grade may be released, upon request, by the state board from the requirements of subsection ~~(c)~~ (c).

Sec. 6. K.S.A. 2003 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110.

(a) *Resident Individuals.* Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

If the taxable income is:	The tax is:
Not over \$30,000	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000	\$1,050 plus 6.25% of excess over \$30,000

Over \$60,000 \$2,925 plus 6.45% of excess over \$60,000

(2) *All other individuals.*

(A) For tax year 1997:

If the taxable income is:	The tax is:
Not over \$20,000	4.1% of Kansas taxable income
Over \$20,000 but not over \$30,000	\$820 plus 7.5% of excess over \$20,000
Over \$30,000	\$1,570 plus 7.75% of excess over \$30,000

(B) For tax year 1998, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$15,000	3.5% of Kansas taxable income
Over \$15,000 but not over \$30,000	\$525 plus 6.25% of excess over \$15,000
Over \$30,000	\$1,462.50 plus 6.45% of excess over \$30,000

(b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

- (1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and
- (2) the surtax shall be in an amount equal to 3.35% of the Kansas taxable income of such corporation in excess of \$50,000.

(d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in paragraph (2) of subsection (a) hereof.

(e) *In addition to the tax imposed pursuant to subsections (a) and (b), for tax years commencing after December 31, 2003, a surcharge shall be imposed on resident individuals and nonresident individuals in the amount of 4.5% of the tax due pursuant to subsections (a) and (b), computed without regard to any applicable income tax credits.*

Sec. 7. K.S.A. 2003 Supp. 72-6407 is hereby amended to read as follows: 72-6407. As used in this act:

(a) (1) "Pupil" means any person (A) who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district ~~or~~; (B) who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, ~~or~~; or (C) who is regularly enrolled in a district and attending special education *and related* services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as 1/2 pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least 5/6 time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least 5/6 time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except

special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

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

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

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

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

(e) "Enrollment" means: (1) For districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this ~~clause~~ *paragraph* (1), the number of pupils regularly enrolled in the district on September 20;

(2) If enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled;

(3) *For districts affected by a disaster, as defined by K.S.A. 72-6447, and amendments thereto, the number of pupils as determined under K.S.A. 72-6447, and amendments thereto.*

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

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

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

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

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget ~~and budgeted therein the total amount authorized for the school year~~ in an amount that is in an amount of at least 25% of the state financial aid determined for the district in the current school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

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

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

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

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

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

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

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

Sec. 8. K.S.A. 72-6433 is hereby amended to read as follows: 72-6433. (a) (1) The board of any district may adopt a local option budget in each school year in an amount not to exceed an amount equal to the district prescribed percentage of the amount of state financial aid determined for the district in the school year. As used in this section, "district prescribed percentage" means:

(A) For any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year, in the ~~2001-02~~ 2004-05 school year and in each school year thereafter, a percentage that is equal to 80% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year;

(B) for any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the ~~2001-02~~ 2004-05 school year

and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(C) for any district that was not authorized to adopt a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the ~~2001-02~~ 2004-05 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(D) for any district to which the provisions of K.S.A. 72-6444, and amendments thereto, applied in the 1997-98 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year because an increase in the amount budgeted by the district in its local option budget as authorized by a resolution adopted under the provisions of subsection (b) causes the actual amount per pupil budgeted by the district in the preceding school year as determined for the district under provision (1) of subsection (a) of K.S.A. 72-6444, and amendments thereto, to equal or exceed the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year if the resolution authorized the district to increase its local option budget on a continuous and permanent basis. If the resolution that authorized the district to increase its local option budget specified a definite period of time for which the district would retain its authority to increase the local option budget and such authority lapses at the conclusion of such period and is not renewed, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution unless the loss of the percentage of increase that was authorized by the resolution would cause the actual amount per pupil budgeted by the district to be less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, in which case, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution plus a percentage which shall be computed for the district by the state board in accordance with the provisions of K.S.A. 72-6444, and amendments thereto, except that, in making the determination of the actual amount per pupil budgeted by the district in the preceding school year, the state board shall exclude the percentage of increase that was authorized by the resolution.

(2) (A) Subject to the provisions of subpart (B), the adoption of a local option budget under authority of this subsection shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(B) In lieu of utilizing the authority granted by subpart (A) for adoption of a local option budget, the board of a district may pass a resolution authorizing adoption of such a budget and publish such resolution once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. _____

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year for a period of time not to exceed _____ years in an amount not to exceed _____% of the amount of state financial aid determined for

the current school year. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the ____ day of _____, ____.

Clerk of the board of education.

All of the blanks in the resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in either of the blanks. The percentage specified in the resolution shall not exceed the district prescribed percentage. The resolution shall be published once in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board may adopt a local option budget. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If any district is authorized to adopt a local option budget under this subpart, but the board of such district chooses, in any school year, not to adopt such a budget or chooses, in any school year, to adopt such budget in an amount less than the amount of the district prescribed percentage of the amount of state financial aid in any school year, such board of education may so choose. If the board of any district refrains from adopting a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget, nor shall the amount authorized to be budgeted in any succeeding school year be increased by such refrainment. Whenever an initial resolution has been adopted under this subpart, and such resolution specified a lesser percentage than the district prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and subject to the same conditions, and shall be authorized to increase the percentage as specified in any such subsequent resolution for the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions is not in excess of the district prescribed percentage in any school year. The board of any district that has been authorized to adopt a local option budget under this subpart and levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew its authority to adopt a local option budget in the manner specified in this subpart or may utilize the authority granted by subpart (A). As used in this subpart, the term "authorized to adopt a local option budget" means that a district has adopted a resolution under this subpart, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

(3) The provisions of this subsection are subject to the provisions of subsections (b) and (c).

(b) The provisions of this subsection (b) shall be subject to the provisions of K.S.A. 72-6433a, and amendments thereto.

(1) The board of any district that adopts a local option budget under subsection (a) may increase the amount of such budget in each school year in an amount which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage of the amount of state financial aid determined for the district in the school year if the board of the district determines that an increase in such budget would be in the best interests of the district.

(2) No district may increase a local option budget under authority of this subsection until: (A) A resolution authorizing such an increase is passed by the board and published once in a newspaper having general circulation in the district; or (B) the question of whether the board shall be authorized to increase the local option budget has been submitted to and approved by the qualified electors of the district at a special election called for the purpose. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto, for the noticing, calling and holding of elections upon the question of issuing bonds under the general bond law. The notice of such election shall state the purpose for and time of the election, and the ballot shall be designed with the question of whether the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year. If a majority of the qualified electors voting at the election approve authorization of the board to increase the local option budget, the board shall have such authority. If a majority of the qualified electors voting at the election are opposed to authorization of the board to increase the local option budget, the board shall not have such authority and no like question shall be submitted to the qualified electors of the district within the nine months following the election.

(3) (A) Subject to the provisions of subpart (B), a resolution authorizing an increase in the local option budget of a district shall state that the board of education of the district shall be authorized to increase the local option budget of the district in each school year in an amount not to exceed _____% of the amount of state financial aid determined for the current school year and that the percentage of increase may be reduced so that the sum of the percentage of the amount of state financial aid budgeted under subsection (a) and the percentage of increase specified in the resolution does not exceed the state prescribed percentage in any school year. The blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in the blank. The resolution shall specify a definite period of time for which the board shall be authorized to increase the local option budget and such period of time shall be expressed by the specific number of school years for which the board shall retain its authority to increase the local option budget. No word shall be used to express the number of years for which the board shall be authorized to increase the local option budget.

(B) In lieu of the requirements of subpart (A) and at the discretion of the board, a resolution authorizing an increase in the local option budget of a district may state that the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year.

(4) A resolution authorizing an increase in the local option budget of a district shall state that the amount of the local option budget may be increased as authorized by the resolution unless a petition in opposition to such increase, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication. If no petition is filed in accordance with the provisions of the resolution, the board is authorized to increase the local option budget of the district. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether the board shall be authorized to increase the local option budget of the district. If the board fails to notify the county election officer within 30 days after a petition

is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(5) The requirements of provision (2) do not apply to any district that is continuously and permanently authorized to increase the local option budget of the district. An increase in the amount of a local option budget by such a district shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(6) If any district is authorized to increase a local option budget, but the board of such district chooses, in any school year, not to adopt or increase such budget or chooses, in any school year, to adopt or increase such budget in an amount less than the amount authorized, such board of education may so choose. If the board of any district refrains from adopting or increasing a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the amount authorized to be budgeted in any succeeding school year shall not be increased by such refrainment, nor shall the authority of the district to increase its local option budget be extended by such refrainment beyond the period of time specified in the resolution authorizing an increase in the local option budget if the resolution specified such a period of time.

(7) Whenever an initial resolution has been adopted under this subsection, and such resolution specified a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) is less than the state prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and shall be authorized to increase the percentage as specified in any such subsequent resolution. If the initial resolution specified a definite period of time for which the district is authorized to increase its local option budget, the authority to increase such budget by the percentage specified in any subsequent resolution shall be limited to the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions together with the percentage of the amount of state financial aid budgeted under subsection (a) is not in excess of the state prescribed percentage in any school year.

(8) (A) Subject to the provisions of subpart (B), the board of any district that has adopted a local option budget under subsection (a), has been authorized to increase such budget under a resolution which specified a definite period of time for retention of such authorization, and has levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew the authority to increase the local option budget subject to the conditions and in the manner specified in provisions (2) and (3) of this subsection.

(B) The provisions of subpart (A) do not apply to the board of any district that is continuously and permanently authorized to increase the local option budget of the district.

(9) As used in this subsection:

(A) "Authorized to increase a local option budget" means either that a district has held a special election under provision (2)(B) by which authority of the board to increase a local option budget was approved, or that a district has adopted a resolution under provision (2)(A), has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the authority of the board to increase a local option budget was approved.

(B) "State prescribed percentage" means ~~25%~~ 30%.

(c) To the extent the provisions of the foregoing subsections conflict with this subsection, this subsection shall control. Any district that is authorized to adopt a local option budget in the 1997-98 school year under a resolution which authorized the adoption of such budget in accordance with the provisions of this section prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(d) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under provision (3), amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to the general fund of the district or to any program weighted fund or categorical fund of the district.

(3) Amounts in the supplemental general fund may not be expended nor transferred to the general fund of the district for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) Any unexpended and unencumbered cash balance remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be disposed of as provided in this subsection. If the district did not receive supplemental general state aid in the school year and the board of the district determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the board of such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, transferred or expended the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the cash balance remaining in the supplemental general fund by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district. The amount remaining in the supplemental general fund may be maintained in such fund or transferred to the general fund of the district.

Sec. 9. K.S.A. 72-6441 is hereby amended to read as follows: 72-6441. (a) (1) The board of any district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state board of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to enrollment of the district. The state board of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of costs directly attributable to commencing operation of one or more new school facilities and the amount that is financed from any other source provided by law for such purpose, including any amount attributable to assignment of school facilities weighting to enrollment of the district for each school year in which the district is eligible for such weighting. If the district is not eligible, or will be ineligible, for school facilities weighting in any one or more years during the two-year period for which the district is authorized to levy a tax under this subsection, the state board of tax appeals may authorize the district to make a levy, in such

year or years of ineligibility, which will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the facility or facilities.

(2) The board of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(3) The state board of tax appeals may adopt rules and regulations necessary to properly effectuate the provisions of this subsection, including rules relating to the evidence required in support of a district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(4) The provisions of this subsection apply to any district that (A) commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year or any or all of the foregoing, and (B) is authorized to adopt and has adopted a local option budget in an amount ~~equal to the state prescribed percentage that is at least 25%~~ of the amount of state financial aid determined for the district in the current school year, and (C) is experiencing extraordinary enrollment growth as determined by the state board of education.

(b) The board of any district that has levied an ad valorem tax on the taxable tangible property of the district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed three years in an amount not to exceed the amount computed by the state board of education as provided in this subsection if the board of the district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the district. The tax authorized under this subsection may be levied at a rate which will produce an amount that is not greater than the amount computed by the state board of education as provided in this subsection. In computing such amount, the state board shall (1) determine the amount produced by the tax levied by the district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of general state aid directly attributable to school facilities weighting that was received by the district in the same year, and (2) compute 75% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the first year of the three-year period for which the district may levy a tax under authority of this subsection, and (3) compute 50% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the second year of the three-year period for which the district may levy a tax under authority of this subsection, and (4) compute 25% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the third year of the three-year period for which the district may levy a tax under authority of this subsection.

(c) The proceeds from the tax levied by a district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

Sec. 10. K.S.A. 72-1101 is hereby amended to read as follows: 72-1101. ~~Every accredited elementary school shall teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and of the state of Kansas, civil government and the duties of citizenship, health and hygiene, together with such other subjects as the state board may determine. (a) Pursuant to the provisions of section 1 of article 6 of the constitution of the state of Kansas which require the legislature to provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, the following areas of instruction shall be available to all Kansas public school students in grades 1 through 12, as specified by the school board:~~

- (1) Reading.
- (2) Writing.
- (3) Mathematics.
- (4) Spelling.
- (5) English grammar and composition and language arts.

- (6) *Geography.*
- (7) *Kansas, United States and world history.*
- (8) *United States and Kansas government.*
- (9) *Patriotism and citizenship and the duties thereof.*
- (10) *Social science.*
- (11) *Science.*
- (12) *Computer technology.*
- (13) *Fine arts and performing arts.*
- (14) *Foreign language.*
- (15) *Physical education, health and hygiene.*
- (16) *Career education.*
- (17) *Industrial technologies.*

(b) ~~The state board shall be responsible for the selection of subject matter within the several fields of instruction and for its~~ the organization of such areas of instruction into courses of study and instruction for the guidance of teachers, principals and superintendents. *The areas of instruction shall be designed to allow for the:*

- (1) *Development of sufficient oral and written communication skills which enable students to function in a complex and rapidly changing society;*
- (2) *acquisition of sufficient knowledge of economic, social and political systems which enable students to understand the issues that affect the community, state and nation;*
- (3) *development of students' mental and physical wellness;*
- (4) *development of knowledge of the arts to enable students to appreciate their cultural and historical heritage and those of others;*
- (5) *training or preparation for advanced training in either academic or vocational fields so as to enable students to choose and pursue life work intelligently;*
- (6) *development of sufficient levels of academic or vocational skills to enable students to compete favorably in academics and the job market; and*
- (7) *needs of students requiring special education services.*

(c) *When determining the number of classes or units of study offered as a part of the areas of instruction required by this section, a school district shall take into the consideration the number of students enrolled in the district and the cost of providing a class or unit of study. A district shall offer the number of classes or units of study necessary to meet the minimum requirements of this section. Schools also may offer other classes or units of study.*

(d) *Pursuant to the provisions of subsection (b) of section 6 of article 6 of the constitution of the state of Kansas which require the legislature to make suitable provision for finance of the educational interests of the state, state moneys appropriated for distribution to school districts shall be deemed to be expended first to pay the costs related to providing the areas of instruction required by subsection (a).*

New Sec 11. Every school district may provide for additional programs or services, including but not limited to, the following:

- (a) *Nursing services.*
- (b) *Counseling services.*
- (c) *Library media services.*
- (d) *Activities programs.*
- (e) *Professional development for certified employees.*
- (f) *Extended learning time.*
- (g) *Alternative schools.*
- (h) *Early childhood programs.*
- (i) *School psychologists and social workers.*
- (j) *Technical education.*

New Sec 12. Each school district shall adopt goals under which:

- (a) *Teachers establish high expectations for learning and monitor student achievement of such expectations through multiple assessment techniques;*
- (b) *the basic mission of schools and school districts is to prepare students to live, learn and work in a modern society;*
- (c) *planned learning activities are provided within an orderly and safe environment which is conducive to learning;*

- (d) instructional leadership is provided resulting in improved student performance in an effective school environment;
- (e) communication skills of students, which are necessary to live, learn and work in a modern society, are developed;
- (f) students are taught and encouraged to think creatively and to problem-solve in order to live, learn and work in a modern society;
- (g) students are taught and encouraged to work effectively, both independently and in groups, in order to live, learn and work in a modern society;
- (h) students are taught and encouraged to participate in lifelong learning;
- (i) students are ensured to have the physical and emotional well-being necessary to live, learn and work in a modern society; and
- (j) all staff shall engage in on-going professional development.

Sec. 13. K.S.A. 2003 Supp. 79-3603, as amended by section 2 of 2004 Senate Bill No. 384, is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% *on and after July 1, 2002, and before July 1, 2004, and 5.5% on and after July 1, 2004*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

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

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

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

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

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

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

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

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

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

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

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

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt

from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

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

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

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

For the purposes of this subsection:

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

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

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

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

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property

is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

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

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

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto; and

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

Sec. 14. K.S.A. 2003 Supp. 79-3620, as amended by section 3 of 2004 Senate Bill No. 384, is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act 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, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) *The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of the amounts credited pursuant to subsection (d), in the state highway fund.*

(4) On July 1, 2006, the state treasurer shall credit $\frac{19}{2000}$ ^{19/270} of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate

of ~~5.3%~~ 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(4)~~ (5) On July 1, 2007, the state treasurer shall credit ~~$\frac{13}{100}$~~ $\frac{13}{100}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~5.3%~~ 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project or taxpayers doing business with such entity financed by a special bond project as defined in K.S.A. 12-1770a, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a special bond project as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment or special bond project.

Sec. 15. K.S.A. 2003 Supp. 79-3703, as amended by section 4 of 2004 Senate Bill No. 384, is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3% *on and after July 1, 2002, and before July 1, 2004, and 5.5% on and after July 1, 2004*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 16. K.S.A. 2003 Supp. 79-3710, as amended by section 5 of 2004 Senate Bill No. 384, is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act 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, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit $\frac{5}{9}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) *The state treasurer shall credit $\frac{5}{105}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.5%, and deposited as*

provided by subsection (a), exclusive of the amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2006, the state treasurer shall credit ~~19/200~~ ^{19/270} of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5.3%~~ 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(4)~~ (5) On July 1, 2007, the state treasurer shall credit ~~19/200~~ ^{13/108} of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5.3%~~ 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.

Sec. 17. K.S.A. 72-979, 72-1101, 72-1103, 72-1117, 72-6410, 72-6413, 72-6414, 72-6433 and 72-6441 and K.S.A. 2003 Supp. 72-978, 72-6407, 79-32,110, 79-3603, as amended by section 2 of 2004 Senate Bill No. 384, 79-3620, as amended by section 3 of 2004 Senate Bill No. 384, 79-3703, as amended by section 4 of 2004 Senate Bill No. 384, and 79-3710, as amended by section 5 of 2004 Senate Bill No. 384, are hereby repealed.”;

By renumbering the remaining section accordingly;

Also on page 4, in line 37, by striking “statute book” and inserting “Kansas register”;

In the title, by striking all in lines 16 through 20 and inserting the following:

“AN ACT concerning school finance; relating to sources of revenue therefor; relating to required courses of study; amending K.S.A. 72-979, 72-1101, 72-6410, 72-6413, 72-6414, 72-6433 and 72-6441 and K.S.A. 2003 Supp. 72-978, 72-6407, 79-32,110, 79-3603, as amended by section 2 of 2004 Senate Bill No. 384, 79-3620, as amended by section 3 of 2004 Senate Bill No. 384, 79-3703, as amended by section 4 of 2004 Senate Bill No. 384, and 79-3710, as amended by section 5 of 2004 Senate Bill No. 384, and repealing the existing sections; also repealing K.S.A. 72-1103 and 72-1117.”;

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

DWAYNE UMBARGER

JOHN VRATIL

ANTHONY HENSLEY

Conferees on part of Senate

KATHE DECKER

CAROL E. BEGGS

BILL REARDON

Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2027**.

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

Yeas: Adkins, Allen, Buhler, Hensley, Jordan.

Nays: Barnett, Barone, Betts, Brownlee, Brungardt, Buntten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Huelskamp, Jackson, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Tad-diken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was not adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2067**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Amended by Senate on Final Action, as follows:

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

By striking all on pages 2 through 16 and inserting:

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

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

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

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

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

Sec. 5. K.S.A. 2003 Supp. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) "Commission" means the corporation commission of the state of Kansas;

(b) "gross combination vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;

(c) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single motor vehicle;

(d) "ground water well drilling rigs" means any vehicle, machine, tractor, trailer, semi-trailer or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water;

(~~(d)~~) (e) "household goods" means personal property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder's dwelling; or

(2) arranged and paid for by another party.

~~(f)~~ (f) "Motor carrier" means any person operating as a for hire motor carrier or a private motor carrier, and any of that person's agents, officers, representatives, as well as employees responsible for hiring, supervising, training, assigning or dispatching of drivers and employees concerned with the installation, inspection and maintenance of motor vehicle equipment or accessories or both;

~~(g)~~ (g) "motor vehicle" means any automobile, truck, trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property;

~~(h)~~ (h) "person" means any individual, firm, partnership, limited liability partnership, corporation, limited liability company, association or their lessees, trustees or receivers;

~~(i)~~ (i) "private motor carrier" means a person who provides transportation of property or passengers, by commercial vehicle and is not a for hire motor carrier;

~~(j)~~ (j) "public highways" means every public street, alley, road or highway or thoroughfare of any kind used by the public;

~~(k)~~ (k) "public motor carrier of household goods" means any person who undertakes for hire to transport by motor vehicle from place to place, the household goods of others who may choose to employ or contract with the motor carrier;

~~(l)~~ (l) "public motor carrier of passengers" means any person who undertakes for hire to transport by motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier; and

~~(m)~~ (m) "public motor carrier of property" means any person who undertakes for hire to transport by motor vehicle, from place to place, the property other than household goods of others who may choose to employ or contract with the motor carrier.

Sec. 6. K.S.A. 2003 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

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

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

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

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

a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

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

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

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

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

(w) *the operation of ground water well drilling rigs.*

Sec. 7. K.S.A. 2003 Supp. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers or private motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. K.S.A. 66-1,142b is hereby amended to read as follows: 66-1,142b. (a) Any ~~motor carrier person~~ violating any statute, commission orders or rules and regulations ~~relevant to motor carriers~~ adopted by the state corporation commission *pursuant to the motor carrier act and other laws relevant to motor carriers* shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations.

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

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

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

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

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

Sec. 9. K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,108, 66-1,109 and 66-1,129 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all of lines 14 through 19 and inserting: “AN ACT relating to motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,108, 66-1,109 and 66-1,129 and repealing the existing sections.”;

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

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

MELVIN NEUFELD
 CLARK SHULTZ
 JOE SHRIVER
Conferees on part of House

Senator Morris moved the Senate adopt the Conference Committee Report on **HB 2067**.

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, Helgeson, 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 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~~ ~~(10)~~ 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 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

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

Nays: 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 2880**, submits the following report:

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

On page 1, in line 41, by striking "the justices" and inserting "a majority";

On page 2, in line 29, before "(2)" by inserting "and"; in line 30, by striking "; and (3) the"; by striking all in line 31; in line 32, by striking "and responsibilities";

On page 3, in line 25, by striking "(a)";

On page 4, by striking all in lines 28 through 36;

On page 5, in line 6, by striking all after "justice"; in line 7, by striking all before the period;

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

JOHN VRATIL
 DEREK SCHMIDT
 GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
 DOUG PATTERSON
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2880**.
 On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 2, Absent or Not Voting 0.

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

Nays: Downey, Journey, Lee, Oleen.

Present and Passing: Haley, Kerr.

The Conference Committee report was adopted.

CHANGE OF CONFERENCE

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

ORIGINAL MOTION

Having voted on the prevailing side, Senator Umbarger moved the Senate reconsider its adverse action on **HB 2027**, and a second conference committee be appointed.

The motion carried, and the President appointed Senators Umbarger, Vratil and Hensley as second conferees on the part of the Senate on **HB 2027**.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

Kansas Inc., Member:

Stanley R. Ahlerich, term expires January 15, 2008

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 appointment was confirmed.

On the appointment to the:

Kansas Inc., Member:

Wilbur (Gene) E. Argo, term expires January 15, 2008

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 appointment was confirmed.

On the appointment to the:

Kansas Inc., Member:

Patricia L. Bossert, term expires January 15, 2008

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 appointment was confirmed.

On the appointment to the:

Kansas Inc., Member:

Donna A. Johnson, term expires January 15, 2005

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 appointment was confirmed.

Kansas Inc., Member:

Wilbert J. Leiker, term expires January 15, 2005

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 appointment was confirmed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1865—

A RESOLUTION honoring Christopher D. Schneider.

WHEREAS, Christopher D. Schneider of Parsons deployed to Iraq May 30, 2003, as a member of the 110th Army Reserve Quartermaster Company. He was stationed at Camp Anaconda about 40 miles north of Baghdad. He, with about 1,000 others, formed a quick reaction team providing security for convoys traveling from Balad to Tikrit three times weekly; and

WHEREAS, On January 13, 2004, while with a security convoy he was involved in a multiple vehicle accident. He was thrown into a ravine and a heavy vehicle landed on top of him. He suffered multiple wounds including fractures of the left hip and pelvis and severing of the right femoral artery. With death imminent he was air evacuated to Germany and then to Walter Read Army Medical Center in Washington, D.C. After 36 injections of blood and 18 surgeries he survived but his right leg had to be amputated; and

WHEREAS, Christopher Schneider has been fitted with a high-tech prosthetic leg with microprocessors that will respond to leg movements 50 times per second. He is in a rehabilitation program at the hospital and eventually should have 95% use of his leg; and

WHEREAS, He has a positive outlook on life choosing to focus on what he has gained rather than lost. He fully supports the involvement of the United States in Iraq and believes the people of Iraq do support the efforts to bring them freedom; and

WHEREAS, Christopher is married and has two children: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor the service and sacrifices Christopher D. Schneider has made in bringing freedom to the people of Iraq; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Christopher D. Schneider.

On emergency motion of Senator Umbarger **SR 1865** was adopted unanimously.

MESSAGE FROM THE HOUSE

Announcing the House adopts the Conference Committee Report to agree to disagree on **HCR 5005** and has appointed Representatives Mason, O'Neal and Rehorn as second conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for HB 2937**, requests a conference and has appointed Representatives Decker, O'Neal and Reardon as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 395** and has appointed Representatives Wilk, Gordon and Burroughs as conferees on the part of the House.

The House concurs in Senate amendments to **HB 2569**.

The House adopts the conference committee report on **SB 29**.

The House adopts the conference committee report on **SB 432**.

The House adopts the conference committee report on **HB 2347**.

The House adopts the conference committee report on **HB 2404**.

The House adopts the conference committee report on **HB 2658**.

The House announces the appointment of Representative O'Neal to replace Representative Beggs as a conferee on **HB 2027**.

The House announces the appointment of Representative O'Neal to replace Representative Beggs as a conferee on **SB 393**.

The House announces the appointment of Representative Schwartz to replace Representative Powell as a conferee on **SB 296**.

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

AFTERNOON SESSION

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

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2937**.

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

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 432**.

CONFERENCE COMMITTEE REPORT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The name of the foreign limited liability company;
- (b) the state or other jurisdiction or country where organized, the date of its organization and a statement issued by an appropriate authority in that jurisdiction *or by a third-party agent authorized by the secretary of state* that the foreign limited liability company exists in good standing under the laws of the jurisdiction of its organization;
- (c) the nature of the business or purposes to be conducted or promoted in the state of Kansas;
- (d) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by this act;
- (e) an irrevocable written consent of the foreign limited liability company that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304, and amendments thereto, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the general partners of the foreign limited liability company;
- (f) the name and business, residence or mailing address of each of the members or, if managed by managers, the name and business, residence or mailing address of each of the managers; and
- (g) the date on which the foreign limited liability company first did, or intends to do, business in the state of Kansas.

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

Sec. 96. K.S.A. 2003 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability company; and
 - (2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.
- (b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of

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

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

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

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

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

(g) *When any limited liability company that is required to file an annual report with the secretary of state applies for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such*

copies of applications for extension of the time for filing income tax returns filed shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, or subsection (h). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

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

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

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

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

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

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

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

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

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

(a) The name of the foreign limited partnership;

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

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

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

(e) an irrevocable written consent of the foreign limited partnership that actions may be commenced against it in the proper court of any county where there is proper venue by

the service of process on the secretary of state as provided for in K.S.A. 60-304 and amendments thereto and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the general partners of the foreign limited partnership;

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

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

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

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

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

(1) The name of the limited partnership; and

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

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

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

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

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

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

due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

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

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

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

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

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

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

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

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

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

- (1) Maintaining, defending or settling an action or proceeding;
- (2) holding meetings or carrying on any other activity concerning its internal affairs;

- (3) maintaining bank accounts;
 - (4) maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;
 - (5) selling through independent contractors;
 - (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
 - (7) creating or acquiring indebtedness, mortgages or security interests in real or personal property;
 - (8) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;
 - (9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of like nature; and
 - (10) transacting business in interstate commerce.
- (b) The ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes doing business in this state.
- (c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation or regulation under any other law of this state.
- (d) The provisions of this section shall be part of and supplemental to the Kansas revised limited liability company act.

New Sec. 102. (a) When any limited partnership that is required to file an annual report with the secretary of state, shall apply for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (b). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed. Nothing in this section shall be deemed to prohibit the secretary of state from issuing any document described in K.S.A. 56-1a605, and amendments thereto, concerning a limited partnership.

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

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

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

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

(10) transacting business in interstate commerce.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) A certified public accountant;
- (2) an architect;
- (3) an attorney-at-law;
- (4) a chiropractor;
- (5) a dentist;
- (6) an engineer;
- (7) an optometrist;
- (8) an osteopathic physician or surgeon;
- (9) a physician, surgeon or doctor of medicine;
- (10) a veterinarian;
- (11) a podiatrist;
- (12) a pharmacist;
- (13) a land surveyor;
- (14) a licensed psychologist;

- (15) a specialist in clinical social work;
- (16) a licensed physical therapist;
- (17) a landscape architect;
- (18) a registered professional nurse;
- (19) a real estate broker or salesperson;
- (20) a clinical professional counselor;
- (21) a geologist;
- (22) a clinical psychotherapist; ~~and~~
- (23) a clinical marriage and family therapist;
- (24) *a licensed physician assistant; and*
- (25) *a licensed occupational therapist.*

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

(d) "Qualified person" means:

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

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

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

Sec. 108. K.S.A. 2003 Supp. 17-2710 is hereby amended to read as follows: 17-2710. A professional corporation may be organized only for the purpose of rendering one type of professional service and service ancillary thereto and shall not engage in any other business, except that a single professional corporation may be organized to and render professional services under any two or more of the types set forth in items (2), (6), (13) and (17) ~~or~~ of subsection (b) of K.S.A. 17-2707, and amendments thereto; under any two or more of the types set forth in items (4), (5), (7), (8), (9), (11), (12), (14), (15), (16) or (18) of subsection (b) of K.S.A. 17-2707, and amendments thereto; or under any two or more of the types set forth in items (8), (9), (18), (24) and (25) of subsection (b) of K.S.A. 17-2707, and amendments thereto, but shall be deemed to have the following purposes, whether or not authorized by its article of incorporation:

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

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

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

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

And by renumbering sections accordingly;

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

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

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

MICHAEL 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**.

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 House amendments to **SB 432**, submits the following report:

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

On page 8, in line 33, by striking all after "(e)"; by striking all in lines 34 through 37 and inserting "The agency, agency head and any officer or employee of the agency shall be absolutely immune from civil liability:

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

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

MICHAEL 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 432**.

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 **HCR 5005**, submits the following report:

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

On page 1, by striking all in lines 18 through 34; in line 35, by striking all after the first "the" and inserting "Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to"; in line 36, by striking all after the colon; by striking all in lines 37 through 43;

On page 2, by striking all in lines 1 through 15 and inserting:

"Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

"§ 16. **Marriage.** (a) The marriage contract is to be considered in law as a civil contract. Marriage shall be constituted by one man and one woman only. All other marriages are declared to be contrary to the public policy of this state and are void.

"(b) No relationship, other than a marriage, shall be recognized by the state as entitling the parties to the rights or incidents of marriage."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"*Explanatory statement.* There is currently no constitutional provision regarding marriage. There is a statute, enacted by the legislature, that defines marriage as a civil contract between two persons who are of opposite sex and declares all other marriages to be contrary to public policy and void.

"A vote for this proposition would amend the Kansas constitution to incorporate into it the definition of marriage as a civil contract between one man and one woman only and the declaration that any other marriage is contrary to public policy and void. The proposed constitutional amendment also would prohibit the state from recognizing any other legal relationship that would entitle the parties in the relationship to the rights or incidents of marriage.

"A vote against this proposition would not amend the constitution, in which case the current statute that defines marriage would remain unchanged but could be amended by future acts of the legislature or modified by judicial interpretation."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2004 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.";

In the title, in line 14, by striking all after "A"; by striking all in line 15; in line 16, by striking all before the period and inserting "PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, concerning marriage";

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

JOHN VRATIL
DEREK SCHMIDT
Conferees on part of Senate

WILLIAM MASON
MICHAEL O'NEAL
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HCR 5005**. On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Barone, Brownlee, Bunten, Clark, Corbin, Donovan, Emler, Gilstrap, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Adkins, Allen, Betts, Brungardt, Buhler, Downey, Goodwin, Haley, Helgerson, Hensley, Oleen, Steineger, Vratil.

A two-thirds constitutional majority having voted in favor of the resolution **HCR 5005** was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **HCR 5005** simply because I believe it is right to let the people of Kansas vote on this important question. In spite of all of the grand debate on this issue, lets not forget what we are voting on. It is simply right to let the citizens of Kansas vote on this question. The citizens will make the ultimate decision.—JIM BARONE

MR. PRESIDENT: The Kansas Constitution does not need to be amended at this time in order to deny same gender persons the right to marry in Kansas. That goal has already been achieved both here in Kansas and in the federal system. Federal laws are very clear on these issues and have been since the Defense of Marriage Act was signed into law in 1996.

I do not believe the final version of the proposed constitutional amendment which the conference committee has spent a great deal of time on during this week will provide any meaningful legal protection that cannot be achieved with equal force through ordinary legislation. I believe it will be a catalyst for litigation. When a state chooses to discriminate against a disfavored minority group by amending the state constitution, that discrimination will be suspect in the eyes of the courts.

I was anticipating when this conference committee was formed that we would look at the research and federal court cases which have been tried at the United States Supreme Court which focused on opposing equality of treatment of people based on prejudice and hostility and our ultimate work would to through our state legislation, should we find the need for further clarification our goals. That did not happen.

I believe our State Constitution is a fragile document which should be held in high esteem. To use this document for discriminatory purposes is wrong.—GRETA GOODWIN

Senator Downey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Goodwin on **HCR 5005**.

I vote in favor of this constitutional amendment because I believe a great majority of Kansans want to vote on a measure that will state clearly that marriage is between one man and one woman. I have some doubt that the second paragraph will be found compatible with the equal protection clause of the *U.S. Constitution*. However, the conference committee has done a very good job of cleaning up the language sent to us by the House and giving this amendment a fair chance of being upheld.—DAVE KERR

MR. PRESIDENT: Marriages between one man and one woman are the only valid marriages recognized in our state. I believe in and support marriage between one man and one woman. Kansas does not recognize same sex unions as marriages.

The amendment which passed the Senate today on a vote of 27-13 will be challenged in federal court because it deviates from our 1867 law, our 1996 Defense of Marriage Act and our 2002 unanimous Kansas Supreme Court decision which all reaffirm that marriage is between one man and one woman only. I choose not to be part in helping ensure a lawsuit where our state's law and recognition of marriage can be overturned by a federal court ruling.

I vote no on **HCR 5005**.—LANA OLEEN

PROTEST

MR. PRESIDENT: Pursuant to the Kansas Constitution I hereby protest the contents of the conference committee report on **HCR 5005** and vote no.

This proposed amendment is nothing but an exercise in discrimination. The amendment is unnecessary, unfair and unwise. It should be rejected.

While this proposed constitutional amendment passed the Senate today — and I apologize to all gay and lesbian Kansans for that action — I can only hope that with a greater level of understanding perhaps a different result can be obtained in the future. To that end I submit herewith the text of a publication from the Human Rights campaign entitled, “Answers to Questions About Marriage Equality.” Its contents are a useful tool to help Kansans better understand this issue.

3,136,921

same-sex couples living in the United States.

10 facts

1. Same-sex couples live in 99.3 percent of all counties nationwide.
2. There are an estimated 3,136,921 same-sex couples living in the United States.
3. Fifteen percent of these same-sex couples live in rural settings.
4. One out of three lesbian couples is raising children. One out of five gay male couples is raising children.
5. Between 1 million and 9 million children are being raised by gay, lesbian and bisexual parents in the United States today.
6. At least one same-sex couple is raising children in 96 percent of all counties nationwide.
7. The highest percentages of same-sex couples raising children live in the South. Among those states with the highest percentages: Mississippi, South Dakota and Utah.
8. Nearly one in four same-sex couples includes a partner 55 years old or older, and nearly one in five same-sex couples is composed of two people 55 or older.
9. More than one in 10 same-sex couples include a partner 65 years old or older, and nearly one in 10 same-sex couples is composed of two people 65 or older.
10. The states with the highest numbers of same-sex senior couples are also the most popular for heterosexual senior couples: California, New York and Florida.

These facts are based on analysis of the 2000 U.S. Census conducted by the Urban Institute and Human Rights Campaign.

Why same-sex couples want to marry.

Many same-sex couples want the right to legally marry because they are in love, or because they just met the love of their lives or, more likely, have spent the last 10, 20 or 50 years with that person — and want to honor their relationship in the greatest way our society has to offer, by making a public commitment to stand together in good times and bad, through all the joys and challenges family life brings.

Many parents want the right to marry because they know it offers children a vital safety net and guarantees protections that unmarried parents cannot provide.

And still other people — both gay and straight — are fighting for the right of same-sex couples to marry because they recognize that it is simply not fair to deny some families the protections all other families are eligible to enjoy.

Currently in the United States, same-sex couples in long-term, committed relationships pay higher taxes and are denied basic protections and rights granted to married heterosexual couples. Among them:

- ▶ **Hospital visitation.** Married couples have the automatic right to visit each other in the hospital and make medical decisions. Same-sex couples can be denied the right to visit a sick or injured loved one in the hospital.
- ▶ **Social Security benefits.** Married people receive Social Security payments upon the death of a spouse. Despite paying payroll taxes, gay and lesbian partners receive no Social Security survivor benefits — resulting in an average annual income loss of \$5,528 upon the death of a partner.
- ▶ **Immigration.** Americans in binational relationships are not permitted to petition for their same-sex partners to immigrate. As a result, they are often forced to separate or move to another country.
- ▶ **Health insurance.** Many public and private employers provide medical coverage to the spouses of their employees, but most employers do not provide coverage to the life partners of gay and lesbian employees. Gay employees who do receive health coverage for their partners must pay federal income taxes on the value of the insurance.

- ▶ **Estate taxes.** A married person automatically inherits all the property of his or her deceased spouse without paying estate taxes. A gay or lesbian taxpayer is forced to pay estate taxes on property inherited from a deceased partner.
- ▶ **Retirement savings.** While a married person can roll a deceased spouse's 401(k) funds into an IRA without paying taxes, a gay or lesbian American who inherits a 401(k) can end up paying up to 70 percent of it in taxes and penalties.
- ▶ **Family leave.** Married workers are legally entitled to unpaid leave from their jobs to care for an ill spouse. Gay and lesbian workers are not entitled to family leave to care for their partners.
- ▶ **Nursing homes.** Married couples have a legal right to live together in nursing homes. Because they are not legal spouses, elderly gay or lesbian couples do not have the right to spend their last days living together in nursing homes.
- ▶ **Home protection.** Laws protect married seniors from being forced to sell their homes to pay high nursing home bills; gay and lesbian seniors have no such protection.
- ▶ **Pensions.** After the death of a worker, most pension plans pay survivor benefits only to a legal spouse of the participant. Gay and lesbian partners are excluded from such pension benefits.

Why civil unions aren't enough.

Comparing marriage to civil unions is a bit like comparing diamonds to rhinestones. One is, quite simply, the real deal; the other is not. Consider:

- ▶ Couples eligible to marry may have their marriage performed in any state and have it recognized in every other state in the nation and every country in the world.
- ▶ Couples who are joined in a civil union in Vermont (the only state that offers civil unions) have no guarantee that its protections will even travel with them to neighboring New York or New Hampshire — let alone California or any other state.

Moreover, even couples who have a civil union and remain in Vermont receive only second-class protections in comparison to their married friends and neighbors. While they receive state-level protections, they do not receive any of the *more than 1,100 federal benefits and protections of marriage*.

In short, civil unions are not separate but equal — they are separate *and* unequal. And our society has tried separate before. It just doesn't work.

Marriage:

- State grants marriage licenses to couples
- Couples receive legal protections and rights under state and federal law.
- Couples are recognized as being married by the federal government and all state governments.
- Religious institutions are not required to perform marriage ceremonies

Civil unions:

- State would grant civil union licenses to couples.
- Couples receive legal protections and rights under state law only.
- Civil unions are not recognized by other states or federal government.
- Religious institutions are not required to perform civil union ceremonies.

Answers to Questions People are Asking

“I believe God meant marriage for men and women. How can I support marriage for same-sex couples?”

Many people who believe in God — and fairness and justice for all — ask this question. They feel a tension between religious beliefs and democratic values that has been experienced in many different ways throughout our nation's history. That is why the framers of our Constitution established the principle of separation of church and state. That principle applies no less to the marriage issue than it does to any other.

Indeed, the answer to the apparent dilemma between religious beliefs and support for equal protections for all families lies in recognizing that marriage has a significant religious meaning for many people, but that it is also a legal contract. And it is strictly the legal — not the religious — dimension of marriage that is being debated now.

Granting marriage rights to same-sex couples would *not* require Christian, Jewish, Muslim or any other religions to perform these marriages. It would not require religious institutions

to permit these ceremonies to be held on their grounds. It would not even require that religious communities discuss the issue. People of faith would remain free to make their own judgments about what makes a marriage in the eyes of God — just as they are today.

Consider, for example, the difference in how the Catholic Church and the U.S. government view couples who have divorced and remarried. Because church tenets do not sanction divorce, the second marriage is not valid in the church's view. The government, however, recognizes the marriage by extending to the remarried couple the same rights and protections as those granted to every other married couple in America. In this situation — as would be the case in marriage for same-sex couples — the church remains free to establish its own teachings on the religious dimension of marriage while the government upholds equality under law.

It should also be noted that there are a growing number of religious communities that have decided to bless same-sex unions. Among them are Reform Judaism, Unitarian Universalists and the Metropolitan Community Church. The Presbyterian Church (USA) also allows ceremonies to be performed, although they are not considered the same as marriage. The Episcopal Church and United Church of Christ allow individual churches to set their own policies on same-sex unions.

“This is different from interracial marriage. Sexual orientation is a choice.”

“We cannot keep turning our backs on gay and lesbian Americans. I have fought too hard and too long against discrimination based on race and color not to stand up against discrimination based on sexual orientation. I’ve heard the reasons for opposing civil marriage for same-sex couples. Cut through the distractions, and they stink of the same fear, hatred, and intolerance I have known in racism and in bigotry.”—Rep. John Lewis, D-Ga., a leader of the black civil rights movement, writing in The Boston Globe, Nov. 25, 2003

Decades of research all point to the fact that sexual orientation is not a choice, and that a person's sexual orientation cannot be changed. Who one is drawn to is a fundamental aspect of who we are.

In this way, the struggle for marriage equality for same-sex couples is just as basic as the fight for interracial marriage was. It recognizes that Americans should not be coerced into false and unhappy marriages but be free to marry the person they love thereby building marriage on a true and stable foundation.

“Won't this create a free-for-all and make the whole idea of marriage meaningless?”

Many people share this concern because opponents of gay and lesbian people have used this argument as a scare tactic. But it is not true. Granting same-sex couples the right to marry would in no way change the number of people who could enter into a marriage (or eliminate restrictions on the age or familial relationships of those who may marry). Marriage would continue to recognize the highest possible commitment that can be made between two adults, plain and simple.

Organizations that Support Same-Sex Parenting:

American Academy of Pediatrics
 American Academy of Family Physicians
 Child Welfare League of American
 National Association of Social Workers
 North American Council on Adoptable Children
 American Bar Association
 American Psychological Association
 American Psychiatric Association
 American Psychoanalytic Association

“I strongly believe children need a mother and a father.”

Many of us grew up believing that everyone needs a mother and father, regardless of whether we ourselves happened to have two parents, or two *good* parents.

But as families have grown more diverse in recent decades, and researchers have studied how these different family relationships affect children, it has become clear that the *quality*

of a family's relationship is more important than the particular *structure* of families that exist today. In other words, the qualities that help children grow into good and responsible adults—learning how to learn, to have compassion for others, to contribute to society and be respectful of others and their differences—do not depend on the sexual orientation of their parents but on their parents' ability to provide a loving, stable and happy home, something no class of Americans has an exclusive hold on.

That is why research studies have consistently shown that children raised by gay and lesbian parents do just as well on all conventional measures of child development, such as academic achievement, psychological well-being and social abilities, as children raised by heterosexual parents.

That is also why the nations's leading child welfare organizations, including the American Academy of Pediatrics, the American Academy of Family Physicians and others, have issued statements that dismiss assertions that only heterosexual couples can be good parents and declare that the focus should now be on providing greater protections for the 1 million to 9 million children being raised by gay and lesbian parents in the United States today.

“What would be wrong with a constitutional amendment to define marriage as a union of a man and woman?”

In more than 200 years of American history, the U.S. Constitution has been amended only 17 times since the Bill of Rights and in each instance (except for Prohibition, which was repealed), it was to extend rights and liberties to the American people, not restrict them. For example, our Constitution was amended to end our nation's tragic history of slavery. It was also amended to guarantee people of color, young people and women the right to vote.

The amendment currently under consideration (called the Federal Marriage Amendment) would be the only one that would single out one class of Americans for discrimination by ensuring that same-sex couples would not be granted the equal protections that marriage brings to American families.

Moreover, the amendment could go even further by stripping same-sex couples of some of the more limited protections they now have, such as access to health insurance for domestic partners and their children.

Neither enshrining discrimination in our Constitution nor stripping millions of families of basic protections would serve our nation's best interest. The Constitution is supposed to protect and ensure equal treatment for *all* people. It should not be used to single out a group of people for different treatment.

Text of Proposed Federal Marriage Amendment:

“Marriage in the United States shall consist only of the union of a man and a woman.

Neither this (C)onstitution (n)or the constitution of any state, nor state or federal law, shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups.”

— H.J. Resolution 56, introduced by Rep. Marilyn Musgrave, R-Colo., in May 2003.

It has more than 100 co-sponsors. A similar bill was introduced in the U.S. Senate in November 2003. In February 2004, President Bush said that he would support a constitutional amendment to define marriage as between only a man and a woman.

“How could marriage for same-sex couples possibly be good for the American family — or our country?”

“We shouldn't just allow gay marriage. We should insist on gay marriage. We should regard it as scandalous that two people could claim to love each other and not want to sanctify their love with marriage and fidelity.”

— Conservative Columnist David Brooks,
writing in *The New York Times*,
Nov. 22, 2003.

The prospect of a significant change in our laws and customs has often caused people to worry more about dire consequences that could result than about the potential positive outcomes. In fact, precisely the same anxiety arose when some people fought to overturn

the laws prohibiting marriage between people of different races in the 1950s and 1960s. (“One Virginia judge even declared that “God intended to separate the races.”)

But in reality, opening marriage to couples who are so willing to fight for it could only strengthen the institution for all. It would open the doors to more supporters, not opponents. And it would help keep the age-old institution alive.

As history has repeatedly proven, institutions that fail to take account of the changing needs of the population are those that grow weak; those that recognize and accommodate changing needs grow strong. For example, the U.S. military, like American colleges and universities, grew stronger after permitting African Americans and women to join its ranks.

Similarly, granting same-sex couples the right to marry would strengthen the institution of marriage by allowing it to better meet the needs of the true diversity of family structures in America today.

When gay or lesbian people grow old and in need of nursing home care, there is no legal document that can give them the right to Medicaid coverage without potentially causing their partner to be forced from their home.

“Can’t same-sex couples go to a lawyer to secure all the rights they need?”

Not by a long shot. When gay or lesbian person gets seriously ill, there is no legal document that can make their partner eligible to take leave from work under the federal Family and Medical Leave Act to provide care — because that law applies only to married couples.

When gay or lesbian people grow old and in need of nursing home care, there is no legal document that can give them the right to Medicaid coverage without potentially causing their partner to be forced from their home — because the federal Medicaid law only permits married spouses to keep their home without becoming ineligible for benefits.

And when a gay or lesbian person dies, there is no legal document that can extend Social Security survivor benefits or the right to inherit a retirement plan without severe tax burdens that stem from being “unmarried” in the eyes of the law.

These are only a few examples of the critical protections that are granted through more than 1,100 federal laws that protect only married couples. In the absence of the right to marry, same-sex couples can only put in place a handful of the most basic arrangements, such as naming each other in a will or a power of attorney. And even these documents remain vulnerable to challenges in court by disgruntled family members.

“Won’t this cost taxpayers too much money?”

No, it wouldn’t necessarily cost much at all. In fact, treating same-sex couples as families under law could even save taxpayers money because marriage would require them to assume legal responsibility for their joint living expenses and reduce their dependence on public assistance programs, such as Medicaid, Temporary Assistance to Needy Families, Supplemental Security Income disability payments and food stamps.

Put another way, the money it would cost to extend benefits to same-sex couples could be outweighed by the money that would be saved as these families rely more fully on each other instead of state or federal government assistance.

For example, two studies conducted in 2003 by professors at the University of Massachusetts, Amherst, and the University of California, Los Angeles, found that extending domestic partner benefits to same-sex couples in California and New Jersey would save taxpayers millions of dollars a year.

Specifically, the studies projected that the California state budget would save an estimated \$8.1 million to \$10.6 million each year by enacting the most comprehensive domestic partner law in the nation. In New Jersey, which passed a new domestic partner law in 2004, the savings were projected to be even higher — more than \$61 million each year.

(Sources: “Equal Rights, Fiscal Responsibility: The Impact of A.B. 205 on California’s Budget,” by M. V. Lee Badgett, Ph.D., IGLSS, Department of Economics, University of Massachusetts, and R. Bradley Sears, J.D., Williams Project, UCLA School of Law, University of California, Los Angeles, May 2003, and “Supporting Families, Saving Funds: A Fiscal Analysis of New Jersey’s Domestic Partnership Act,” by Badgett and Sears with Suzanne Goldberg, J.D., Rutgers School of Law-Newark, December 2003.)

“Where can same-sex couples marry today?”

In 2001, the Netherlands became the first country to extend marriage rights to same-sex couples. Belgium passed a similar law two years later. The laws in both of these countries, however, have strict citizenship or residency requirements that do not permit American couples to take advantage of the protections provided.

In June 2003, Ontario became the first Canadian province to grant marriage to same-sex couples, and in July 2003, British Columbia followed suit — becoming the first places that American same-sex couples could go to get married.

In November 2003, the Massachusetts Supreme Judicial Court recognized the right of same-sex couples to marry — calling on the state to begin issuing marriage licenses to same-sex couples by May 17, 2004.

In February 2004, the city of San Francisco began issuing marriage licenses to same-sex couples after the mayor declared that the state constitution forbade him to discriminate. The issue is being addressed by California courts, and a number of other cities have either taken or are considering taking steps in the same direction.

Other nations have also taken steps toward extending equal protections to all couples, though the protections they provide are more limited than marriage. Canada, Denmark, Finland, France, Germany, Iceland, Norway, Portugal and Sweden all have nationwide laws that grant same-sex partners a range of important rights, protections and obligations.

For example, in France, registered same-sex (and opposite-sex) couples can be joined in a civil “solidarity pact” that grants them the right to file joint tax returns, extend social security coverage to each other and receive the same health, employment and welfare benefits as legal spouses. It also commits the couple to assume joint responsibility for household debts.

Other countries, including Switzerland, Scotland and the Czech Republic, also have considered legislation that would legally recognize same-sex unions.

However, laws in this area are changing quickly. Visit www.hrc.org for updates.

“What protections other than marriage are available to same-sex couples?”

At the federal level, there are no protections at all available to same-sex couples. In fact, a federal law called the “Defense of Marriage Act” (DOMA) says that the federal government will discriminate against same-sex couples who marry by refusing to recognize their marriages or providing them with the federal protections of marriage. Some members of Congress are trying to go even further by attempting to pass a Federal Marriage Amendment that would write discrimination against same-sex couples into the U.S. Constitution.

At the state level, only Vermont offers civil unions, which provide important state benefits but no federal protections, such as Social Security survivor benefits. There is also no guarantee that civil unions will be recognized outside Vermont. Thirty-nine states also have “defense of marriage” laws explicitly prohibiting the recognition of marriages between same-sex partners.

Domestic partner laws have been enacted in California, Connecticut, New Jersey, Hawaii and the District of Columbia. The benefits conferred by these laws vary; some offer access to family health insurance, others confer co-parenting rights. These benefits are limited to residents of the state. A family that moves out of these states immediately loses the protections.

I hereby also submit a statement issued by the Interfaith Alliance in opposition to a constitutional amendment banning same-sex couples from marrying. It demonstrates that many people of faith believe there is no justification to write discrimination into our constitution.

The Interfaith Alliance**Statement of The Interfaith Alliance on the Proposed Federal Marriage Amendment**

The Interfaith Alliance, a nonpartisan national grassroots organization dedicated to promoting the positive and healing role of religion in public life, urges the United States Congress to soundly **reject** the Federal Marriage Amendment (H.J. Res. 56/ S.J. Res. 26);

sponsored in the House of Representatives by Representative Marilyn Musgrave (R-CO) and in the Senate by Senator Wayne Allard (R-CO).

We **oppose** the Federal Marriage Amendment because it shows an *indisputable disregard* for religious liberty and a fundamental disrespect for the diversity of approaches to marriage within faith traditions.

As a mainstream religious organization of over 150,000 people of faith and goodwill who come from over 70 faith traditions, we believe that people of faith in a religiously pluralistic society are bound together by shared principles of *compassion, civility and mutual respect for human dignity*.

While pronounced differences exist within our collective religious traditions in regard to the recognition of same-gender relationships, The Interfaith Alliance strives to model a dialogue between faith traditions that upholds our shared principles while neither critiquing nor evaluating the theology or practice of any faith tradition.

Few rituals within religious traditions are as sacred and central to the identity of a religious body as marriage. Indeed, the Constitution appropriately bars any court or any legislature from requiring a religious institution to perform these rites and further, allows houses of worship the freedom to limit marriages on whatever theological grounds they choose.

Regardless of judicial and legislative decisions, which define a civil marriage within a geographical jurisdiction, The Interfaith Alliance honors and respects the sovereignty of individual faith traditions to determine what they choose to recognize as a religious marriage. This is, in our view, consistent with our primary mission of upholding and strengthening religious liberty.

Respecting the rights of those in our diverse communities of faith who deem same-gender marriage to be consistent with their religious creed ensures that the United States will continue to be the most religiously pluralistic country in the world. We firmly believe that it is not the purview of our government to enshrine in our laws the beliefs of one particular faith tradition over others.

Finally, our call to unite the nation under the banner of mutual respect for human dignity requires us to ensure that all Americans are protected equally under the law. Any amendment to our Constitution that denies some Americans the same rights as afforded their neighbors demeans us all.

We urge the United States Congress to retain religious freedom and dignity for all and defeat this unnecessary and divisive Constitutional amendment.

I am hopeful that future Senates will pursue opportunities to unite us—rather than divide us. I pledge my continued best efforts at reconciliation and justice, and invite all Kansans to come together to celebrate diversity and renew our commitment to tolerance and understanding.—DAVID ADKINS

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2880**.

The House adopts the conference committee report on **SB 552**.

The House accedes to the request of the Senate for a conference on **HB 2027** and has appointed Representatives Decker, O'Neal and Reardon as second conferees on the part of the House.

The House announces the appointment of Representative Dahl to replace Representative D. Williams as a conferee on **SB 2**.

The House announces the appointment of Representative Tafanelli to replace Representative Huff as a conferee on **House Substitute for SB 147**.

The House announces the appointment of Representatives Edmonds, Tafanelli and Larkin to replace Representatives Dahl, Novascone and Ruff as a conferee on **HB 2375**.

CHANGE OF REFERENCE

The President withdrew **HB 2889** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Judiciary.

REPORTS OF STANDING COMMITTEES

Committee on **Utilities** recommends **HB 2703**, as amended by House Committee, be amended on page 1, by striking all in lines 15 through 43;

On page 2, by striking all in lines 1 through 38 and inserting:

“Section 1. K.S.A. 74-8939 is hereby amended to read as follows: 74-8939. (a) For the purpose of financing the construction, renovation or repair of (1) one or more facilities which generate electricity solely by use of hydropower and which each have a capacity of more than two but less than 25 megawatts, or (2) a facility or portion thereof which generates electricity and is designed as a prototype for the generation of electricity and hydrogen with limited emissions and for research in connection with related technologies and which includes a research or teaching component involving one or more postsecondary educational institutions or faculty members thereof, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, renovation or repair, including any required interest on the bonds during construction, renovation or repair, plus all amounts required for costs of the bond issuance and for any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of electricity generated by the generation facility or facilities or from any other revenues available to be pledged by the Kansas development finance authority for such purpose.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.”;

Also on page 2, in line 39, by striking “79-5105” and inserting “74-8939”;

In the title, in line 10, by striking all following “ACT”; in line 11, by striking all preceding “and” and inserting “providing for the issuance of bonds by the Kansas development finance authority for the design of a prototype facility for the generation of electricity and hydrogen; amending K.S.A. 74-8939”; and the bill be passed as amended..

On motion of Senator Oleen the Senate adjourned until 1:30 p.m., Monday, May 3, 2004.

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

PAT SAVILLE, *Secretary of the Senate.*

