

Journal of the Senate

SIXTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 6, 2004—2:00 p.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,

You have said in Your Book centuries and centuries ago: If my people, who are called by my name, will humble themselves and pray and seek my face and turn from their wicked ways, then will I hear from heaven and will forgive their sin and will heal their land. (II Chronicles 7:14)

Today is the National Day of Prayer: A day when believers all over the United States will pray a special prayer for our country. Only You know, O God, the power of millions of Your people praying at the same time for our nation.

For what does America need prayer?

We pray for the eradication of terrorism against our troops and civilians in Iraq and the rest of the world.

We pray for our Governor and our President.

We pray for righteousness to triumph over evil.

We pray for the extermination of rape, murder, lying, pornography, profanity, sexual immorality, poverty, lack of affordable health care, battering of spouses, molestation of children, stealing, addiction, irresponsibility, hatred, envy, deceit, and many other sins that plague our land.

Help us to humble ourselves and pray and seek your face and turn from our wicked ways because I believe that the vast majority of our fellow Americans realize our nation needs healing.

I ask this in the Name of Jesus,

AMEN

ORIGINAL MOTION

Having voted on the prevailing side, Wednesday, May 5, 2004, Senator Donovan moved the Senate reconsider its adverse action on **H Sub for SB 2**, and a new conference committee be appointed.

The motion carried, and the President appointed Senators Brungardt, Lyon and Gilstrap as third conferees on the part of the Senate on **H Sub for SB 2**.

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

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Senate Substitute for HB 2375**.

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: **H Sub for SB 395**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2624**, 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 21 through 43;

By striking all on pages 2 through 13 and inserting:

“Section 1. K.S.A. 12-1260 is hereby amended to read as follows: 12-1260. When used in this act and unless otherwise specifically provided therein:

- (a) “County” means Shawnee county;
- (b) “city” means the city of Topeka, Kansas;
- (c) “library district” means all territory located within Shawnee county except ~~that~~ (1) territory located within Rossville township and Silver Lake township and (2) territory detached from the district pursuant to section 3, and amendments thereto;
- (d) “board” means the library board of trustees appointed pursuant to the provisions of this act;
- (e) “library” means a library which serves the general public and is supported in whole or in part with tax money and shall be called the Topeka and Shawnee county public library;
- (f) “governing body” means the governing body of a city or the board of county commissioners of a county; and
- (g) “maintenance and support” means the general and usual cost and expense of operating a library.

Sec. 2. K.S.A. 12-1267 is hereby amended to read as follows: 12-1267. (a) The board shall prepare, publish and approve an annual budget for the maintenance and support of the library and may levy a tax not to exceed five mills on all taxable tangible property in the library district. At least 10 days prior to filing the adopted budget with the county clerk, the board shall submit the budget to the governing body of the city and county for review thereby.

(b) Whenever the board determines that the tax levy of five mills authorized by subsection (a) is insufficient to maintain and support the library, the board shall adopt a resolution declaring it necessary to increase the annual levy by an additional amount not to exceed ¼ mill in any one year up to a total amount which shall not exceed an amount equal to eight mills in any year.

(c) Any such resolution adopted under subsection (b) shall state the total amount of the tax to be levied for library purposes and shall be published once each week for two consecutive weeks in the official county newspaper. Whereupon such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition, signed by at least 5% of the qualified electors of the library district, requesting an election upon the proposition to increase the tax levy in excess of the current tax levy is filed with the county election officer within 60 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the electors of the library district voting

at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law. Such taxes shall be levied and collected in like manner as other taxes, which levy the board shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the treasurer of such board.

(d) The levy authorized by this section shall not be deemed a levy of the city or county, and shall be in addition to all other levies authorized or limited by law.

(e) *Any territory detached pursuant to section 3, and amendments thereto, shall not be liable for any levy imposed pursuant to this section after the effective date of such detachment.*

New Sec. 3. (a) Upon presentation to the board of trustees of the library district of a resolution adopted by the governing body of the city of Auburn, Kansas, requesting that all territory located within the city of Auburn be detached from the library district, the board shall adopt a resolution detaching such territory from the library district. The detachment of such territory shall be effective on January 1 of the succeeding year. The library board shall declare the new boundaries of the library district by resolution and shall certify a copy of such resolution to the county clerk.

(b) No resolution pursuant to subsection (a) shall take effect until such resolution has been:

- (1) Adopted by the governing body of the city of Auburn, Kansas;
- (2) filed with the county election officer of Shawnee County, Kansas, and;
- (3) submitted to and approved by a majority of the electors residing in the city of Auburn, Kansas, voting thereon.

Any resolution adopted as required by this subsection shall be published by the governing body of the city of Auburn, Kansas, and become effective 60 days after publication.

(c) Any property annexed by the city of Auburn, Kansas, subsequent to the presentation of a resolution requesting detachment pursuant to subsection (a), may be detached from the library district in the same manner and subject to the same conditions imposed pursuant to this section.

(d) The territory detached from the library district shall be liable for its proportionate share of all outstanding bonded indebtedness and any interest thereon of the library district on the date the resolution is passed by the library board detaching the territory.

New Sec. 4. K.S.A. 12-1260 through 12-1270 and sections 3 and 4, and amendments thereto, shall be known and may be cited as the Topeka and Shawnee library district act.

Sec. 5. K.S.A. 12-1260 and 12-1267 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, by striking all in lines 13 through 18 and inserting:
 “AN ACT concerning libraries; relating to the Topeka and Shawnee county library district; amending K.S.A. 12-1260 and 12-1267 and repealing the existing sections.”;

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

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

JENE VICKREY
 RALPH OSTMEYER
 TOM THULL
Conferees on part of House

Senator Allen moved the Senate adopt the Conference Committee Report on **HB 2624**.
 On roll call, the vote was: Yeas 23, Nays 14, Present and Passing 3, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Brownlee, Buhler, Bunten, Corbin, Donovan, Emler, Huelkamp, Jordan, Journey, Kerr, Morris, O'Connor, Oleen, Pugh, Salmans, Schodorf, Tadden, Tyson, Umbarger, Wagle.

Nays: Adkins, Betts, Brungardt, Clark, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Lyon, Steineger, Vratil.

Present and Passing: Lee, Schmidt, Teichman.

The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **House Substitute for SB 395**.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 2** and has appointed Representatives Mason, Dahl and Rehorn as third conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **House Substitute for SB 395**, submits the following report:

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

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

On page 4, after line 41, by inserting the following:

"Sec. 2. K.S.A. 2003 Supp. 12-1771b is hereby amended to read as follows: 12-1771b.

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

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

(c) If a city determines that revenues from sources other than property taxes will be sufficient to pay any special obligation bonds issued to finance a redevelopment project for an auto race track facility as described in subsection (a) of K.S.A. 12-1770a, and amendments thereto, and the secretary of commerce makes a finding that such project will create a major tourism area pursuant to subsection (n) of K.S.A. 12-1770a, and amendments thereto, all real and personal property, constituting an auto race track facility described in subsection (a) of K.S.A. 12-1770a, and amendments thereto, in such redevelopment district shall be exempt from property taxation for a period ending on the earlier of (1) the date which is 30 years after the date of the finding by the secretary of commerce with respect to such major

tourism area; or (2) the date on which no such special obligation bonds issued to finance such auto race track facility in a major tourism area remain outstanding.

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

(e) Each city which is authorized to issue such bonds shall establish written official procedures for obtaining underwriting services required for the issuance of such bonds, including specifications for requests for proposals and criteria for evaluation of proposals on a competitive basis. The proposal evaluation criteria shall include factors based on cost, capacity to provide the required services, qualifications and experience.

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

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

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

And by renumbering the remaining sections accordingly;

On page 6, in line 36, before the semicolon by inserting “. The proceeds of special obligation bonds issued pursuant to this paragraph after the effective date of this act, shall not be used to finance personal property as defined in K.S.A. 79-102, and amendments thereto”;

On page 9, after line 29, by inserting the following:

(d) For each project financed pursuant to subsection (a)(1)(D), the city shall prepare and submit annually to the governor, the secretary of commerce, Kansas, Inc. and the legislature by October 1 of each year, a report describing the status of any projects within such redevelopment area.”;

Also on page 9, in line 38, by striking all after the period; by striking all in line 39;

On page 12, in line 37, by striking all after “K.S.A.”; in line 38, by striking all before “12-1773”; in line 39, after “Supp.” by inserting “12-1771b.”; after line 39 by inserting the following:

“Sec. 9. On and after July 1, 2004, K.S.A. 12-1771, as amended by section 26 of 2004 Senate Substitute for Substitute for House Bill 2647, is hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 12, in line 41, by striking “statute book” and inserting “Kansas register”;

Also on page 1, in the title, in line 15, after “Supp.” by inserting “12-1771b.”;

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

KENNY A. WILK
 LANA GORDON
 TOM BURROUGHS
Conferees on part of House

KARIN BROWNLEE
 NICK JORDAN
 JIM BARONE
Conferees on part of Senate

Senator Brownlee moved the Senate adopt the Conference Committee Report on **H Sub for SB 395**.

Senator Schmidt offered a substitute motion the senate not adopt the conference committee report and a new conference committee be appointed. The substitute motion failed.

On roll call, the vote was: Yeas 28, Nays 12, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Corbin, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Salmans, Steineger, Teichman, Vratil, Wagle.

Nays: Clark, Donovan, Huelskamp, Journey, Lyon, O'Connor, Pugh, Schmidt, Schodorf, Taddiken, Tyson, Umbarger.

The Conference Committee report was adopted.

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: **HB 2742**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2742**, 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 8, in line 3, after "(1)" by inserting "Information from confidential agency records of the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. The secretary of social and rehabilitation services shall not summarize the outcome of department actions regarding a child alleged to be a child in need of care in information available to members of such committees."; in line 17, before "The" by inserting "(2)"; in line 21, by striking "(2)" and inserting "(3)"; by striking all in lines 35 through 41;

On page 9, following line 32, by inserting the following:

"(f) (1) Notwithstanding any other provision of law to the contrary, except as provided in paragraph (2), in the event that child abuse or neglect results in a child fatality or near fatality, reports or records of a child in need of care received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall become a public record and subject to disclosure pursuant to K.S.A. 45-215, and amendments thereto. Within seven days of receipt of a request in accordance with the procedures adopted under K.S.A. 45-220, and amendments thereto, the secretary shall notify any affected individual that an open records request has been made concerning such

records. The secretary or any affected individual may file a motion requesting the court to prevent disclosure of such record or report, or any select portion thereof. If the affected individual does not file such motion within seven days of notification, and the secretary has not filed a motion, the secretary shall release the reports or records. In reviewing such motion, the court shall consider the effect such disclosure may have upon an ongoing criminal investigation, a pending prosecution, or the privacy of the child, if living, or the child's siblings, parents or guardians. Nothing herein is intended to require that an otherwise privileged communication lose its privileged character. If the court grants such motion, the court shall make written findings on the record justifying the closing of the records. For reports or records requested pursuant to this subsection, the time limitations specified in this subsection shall control to the extent of any inconsistency between this subsection and K.S.A. 45-218, and amendments thereto. As used in this section, "near fatality" means an act that, as certified by a person licensed to practice medicine and surgery, places the child in serious or critical condition.

(2) Nothing in this subsection shall allow the disclosure of reports, records or documents concerning the child and such child's biological parents which were created prior to such child's adoption.";

On page 10, following line 25, by inserting the following:

"(8) Persons or entities allowed access pursuant to subsection (f) of K.S.A. 38-1507, and amendments thereto.";

On page 11, following line 9, by inserting the following:

"(3) The department of health and environment or persons authorized by the department of health and environment pursuant to K.S.A. 65-512, and amendments thereto, for the purposes of carrying out responsibilities relating to licensure or registration of child care providers as required by article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.";

Also on page 11, in line 10, after "(e)" by inserting "Legislative access. Information from law enforcement records of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate."; in line 25, before "Court" by inserting "(f)";

On page 12, preceding line 27 by inserting the following:

"(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507, and amendments thereto, or subsection (e) of K.S.A. 38-1508, and amendments thereto.";

And by renumbering the remaining subsections accordingly;

On page 13, in line 6, by striking "and" where it appears for the first time and inserting a comma; also in line 6, following "38-1508" by inserting "and 38-1508, as amended by section 2 of 2004 Senate Bill No. 67,"; in line 7, following "38-1507" by inserting ",38-1507, as amended by section 1 of 2004 Senate Bill No. 67,";

On page 1, in the title, in line 15, following "38-1507b" by inserting "and 38-1508, as amended by section 2 of 2004 Senate Bill No. 67, and K.S.A. 2003 Supp. 38-1507, as amended by section 1 of 2004 Senate Bill No. 67";

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

JOHN VRATIL
EDWARD W. PUGH
GRETA GOODWIN

Conferees on part of Senate

WARD LOYD
 THOMAS C. OWENS
 JIM WARD

Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2742**.
 On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Barnett, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Gilstrap, Haley, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Morris, O'Connor, Salmans, Schodorf, Steineger, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Allen, Barone, Betts, Downey, Goodwin, Helgerson, Lyon, Oleen, Pugh, Schmidt, Taddiken.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Substitute for HB 2777**, submits the following report:

The Senate recesses from all its amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Substitute for HB 2777 as follows:

On page 1, by striking all in lines 13 through 18;

On page 3, after line 29 by inserting the following:

“New Sec. 4. On and after July 1, 2004: (a) Aggravated endangering a child is:

(1) Intentionally and recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is injured or endangered;

(2) permitting such child to be in an environment where a person is selling, offering for sale or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture or attempt to manufacture any methamphetamine as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(3) permitting such child to be in an environment where drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

(b) Aggravated endangering a child is a severity level 9, person felony.

(c) As used in this section:

(1) “Manufacture” shall have the meaning ascribed to that term in K.S.A. 65-4101, and amendments thereto; and

(2) “drug paraphernalia” shall have the meaning ascribed to that term in K.S.A. 65-4150, and amendments thereto.

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

Sec. 5. On and after July 1, 2004, K.S.A. 74-7302 is hereby amended to read as follows: 74-7302. (a) Within the limits of appropriations therefor, the board shall award compensation for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met.

(b) *The board may adjust compensation so that the total amount of compensation granted in each fiscal year does not exceed the amount of money anticipated to be credited to the crime victim compensation fund during such year. An adjustment may include prorating or prioritizing such compensation based upon the anticipated funds.*

Sec. 6. On and after July 1, 2004, K.S.A. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit ~~7.99%~~ 11.99% to the crime victims compensation fund, ~~1.45%~~ 2.45% to the crime victims assistance fund, 2.01% to the community alcoholism and intoxication programs fund, 2.01% to the department of corrections alcohol and drug abuse treatment fund. The remainder of the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the

county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.”;

And by renumbering the remaining sections accordingly;

Also on page 3, after line 35 by inserting the following:

“Sec. 9. On and after July 1, 2004, K.S.A. 74-7302 and 74-7336 are hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 1, in the title, in line 9, by striking “controlled substances; relating to manufacturing” and inserting “crimes, punishment and criminal procedure”; in line 10, by striking the first “and” and inserting a comma; also in line 10, after “65-4163” by inserting “, 74-7302 and 74-7336”;

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

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

Senator Schmidt moved the Senate adopt the Conference Committee Report on **S Sub for Sub HB 2777**.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Pugh.

The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **House Substitute for SB 376**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **House Substitute for SB 376**, submits the following report:

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

On page 7, by striking all in lines 40 through 43;

On page 8, by striking all in lines 1 through 43;

On page 9, by striking all in lines 1 through 30;

By renumbering sections accordingly;

On page 11, in line 1, after the semicolon, by inserting “or”; in line 2, after the semicolon, by inserting “or”; in line 33, by striking “Except as provided in”; by striking all in line 34 and inserting “Individual”;

On page 12, in line 31, by striking “entertainment or”; also in line 31, by striking “recreation,”; by striking all in line 38; in line 40, by striking “(G)” and inserting “(F)”;

On page 13, in line 2, after the semicolon by inserting “or”; in line 4, by striking “; or”; in line 23, by striking all following the period; by striking all in lines 24 through 27 and inserting:

“(1) For the period commencing on July 1, 2000, and ending on January 22, 2004, registered lobbyists shall have maintained any vendor receipts for food and beverages provided as hospitality. A vendor receipt supporting the provision of food and beverages as hospitality shall be deemed to be sufficient if such vendor receipt shows:

- (A) The date when such food and beverages were provided;
- (B) the place at which such food and beverages were provided; and
- (C) the total cost of the food and beverages provided.

If the vendor's policy is not to provide a receipt containing the information required by this paragraph, the lobbyist's records shall note that fact. In such case, the lobbyist shall maintain the receipt provided by the vendor and records containing the information required by this paragraph.

In addition, a list of the individuals to whom such food and beverages were provided shall be maintained by the lobbyist.

(2) On and after January 23, 2004, any vendor receipt for food and beverages provided as hospitality shall be deemed to be sufficient as a record, if such receipt shows:

- (A) The date when such food and beverages were provided;
- (B) the place at which such food and beverages were provided; and
- (C) the total cost of the food and beverages provided.

An itemization showing the items consumed shall be required on such receipt unless the vendor's policy is not to provide an itemized receipt to any of such vendor's customers. In such case, the lobbyist's records shall note that fact. Also, the lobbyist shall maintain the receipt provided by the vendor and records containing the information required by this paragraph.

In addition, a list of the individuals to whom such food and beverages were provided shall be maintained by the lobbyist.”;

On page 14, by striking all in lines 9 and 10;

By renumbering sections accordingly;

In the title, in line 10, by striking “elected officials” and inserting “public officers and employees”; in line 11, preceding “amending” by inserting “relating to the reporting of lobbyist expenses related to such public officers and employees;”; in line 12, by striking “25-4153.”;

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

DON MYERS
TED POWERS
R.J. WILSON
Conferees on part of House

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

Senator Allen moved the Senate adopt the Conference Committee Report on **H Sub for SB 376**.

On roll call, the vote was: Yeas 25, Nays 13, Present and Passing 2, Absent or Not Voting 0.

Yeas: Allen, Barnett, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Emler, Jackson, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Pugh, Salmans, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Betts, Clark, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Journey, Lyon, Schmidt.

Present and Passing: Adkins, Schodorf.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **H Sub for SB 376** because as my father use to say, “The fix is in!” — HENRY HELGERSON

REPORT ON ENGROSSED BILLS

H Sub for SB 147 reported correctly engrossed May 6, 2004.

Also: **SB 235**, **SB 317**, **SB 520** correctly re-engrossed May 6, 2004.

On motion of Senator Oleen, the Senate recessed until 7:30 p.m.

EVENING SESSION

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

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2624**.

The House adopts the conference committee report on **HB 2742**.

The House adopts the conference committee report on **Senate Substitute for Substitute HB 2777**.

ORIGINAL MOTION

Senator Oleen moved joint rule 3(f) be suspended and the Senate dispense with distribution of copies of the Conference Committee Report on **HB 2027**.

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. 72-6405 is hereby amended to read as follows: 72-6405. (a) K.S.A. 72-6405 through 72-6440 *et seq.*, and amendments thereto, shall be known and may be cited as the school district finance and quality performance act.

(b) ~~The provisions of this section shall take effect and be in force from and after July 1, 1992.~~ *The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.*

Sec. 2. 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 *paragraph (3) of this subsection*, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil’s attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil’s postsecondary education enrollment and attendance together with the pupil’s attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil’s postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil’s vocational education enrollment and attendance together with the pupil’s attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil’s

vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. 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. *A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.*

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

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

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

(e) "Enrollment" means:

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

(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, *special revenues 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~~ *in an amount not less than 25% of the state financial aid 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 correlate to low enrollment weighting assigned to enrollment of districts having under 1,725 enrollment.

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

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

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

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

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

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

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) "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 ~~\$3,590~~ \$3,913. 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~~ .26;

(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 the number of at-risk pupils included in enrollment of the district by ~~10~~ .15. The product is the at-risk pupil weighting of the district.

(b) Except as provided in subsection (d), 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.

(c) 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.

(d) 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 (b).

Sec. 6. 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 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 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 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%~~ 28.5%.

(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 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 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 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 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.

(e) Any district which desires to adopt a local option budget in an amount in excess of the amount of the state prescribed percentage in effect prior to the effective date of this act shall adopt a resolution authorizing the adoption of such budget. The resolution shall be published once in a newspaper having general circulation in the district. The resolution shall be in the same form and subject to the same requirements of subsection (a)(2)(B) of this section. The provisions of this subsection shall not apply to resolutions adopted during calendar year 2004.

Sec. 7. 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~~ *not less than 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. 8. K.S.A. 2003 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) ~~(1)~~ 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 determined 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 under paragraph (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 under paragraph (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 and related services provided by all school districts in the preceding school year;

(5) multiply the amount of the quotient obtained under paragraph (3) by the full-time equivalent enrollment determined under paragraph (4);

(6) determine the amount of federal funds received by all school districts for the provision of special education and related 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 and related services by the state institution;

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

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

(10) subtract the amount of the sum obtained under paragraph (8) from the amount determined under paragraph (9). The product is the amount of state aid school districts are entitled to receive for the provision of special education and related services.

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

~~(1)~~ (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;

~~(2)~~ (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.

~~(2)~~ 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.

~~(b)~~ (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.

~~(c)~~ (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.

~~(d)~~ (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. 9. 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 as state aid for the provision of special education services~~ under this act, 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 distri-

tribution 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. 10. On and after July 1, 2004, 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 3.75% of the tax due pursuant to subsections (a) and (b), computed without regard to any applicable income tax credits.*

Sec. 11. On and after July 1, 2004, 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 5.46% 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. 12. On and after July 1, 2004, 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 $\frac{5}{98}$ 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 $\frac{5}{106}$ 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 $\frac{25}{546}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.46%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(4) On July 1, 2006, the state treasurer shall credit ~~$\frac{19}{208}$~~ $\frac{19}{273}$ 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%~~ 5.46%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(5)~~ (5) On July 1, 2007, the state treasurer shall credit ~~$\frac{13}{106}$~~ 65-546 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%~~ 5.46%, 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. 13. On and after July 1, 2004, 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 5.46% 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. 14. On and after July 1, 2004, 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 $\frac{5}{98}$ 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 $\frac{25}{546}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.46%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(4) On July 1, 2006, the state treasurer shall credit ~~$\frac{19}{265}$~~ $\frac{19}{273}$ 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%~~ 5.46%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(5)~~ (5) On July 1, 2007, the state treasurer shall credit ~~$\frac{13}{106}$~~ $\frac{65}{546}$ 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%~~ 5.46%, 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. 15. K.S.A. 72-979, 72-6405, 72-6410, 72-6413, 72-6414, 72-6433, 72-6440 and 72-6441 and K.S.A. 2003 Supp. 72-978 72-6407 and 72-6407, as amended by section 4 of 2004 Senate Bill No. 304, are hereby repealed.

Sec. 16. On and after July 1, 2004, K.S.A. 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, 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; following line 20, by inserting:

“AN ACT concerning school districts; relating to school finance; amending K.S.A. 72-979, 72-6405, 72-6410, 72-6413, 72-6414, 72-6433 and 72-6441 and K.S.A. 2003 Supp. 72-978, 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, 79-3710, as amended by section 5 of 2004 Senate Bill No. 384, and repealing the existing sections; also repealing K.S.A. 72-6440 and K.S.A. 2003 Supp. 72-6407, as amended by section 4 of 2004 Senate Bill No. 304.”;

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

DWAYNE UMBARGER

JOHN VRATIL

ANTHONY HENSLEY

Conferees on part of Senate

KATHE DECKER

MICHAEL O'NEAL

BILL REARDON

Conferees on part of House

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

Senator Oleen offered a substitute motion the senate not adopt the conference committee report and a new conference committee be appointed. The substitute motion carried and the President appointed Senators Umbarger, Vratil and Hensley as third conferees on the part of the Senate.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Friday, May 7, 2004.

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

PAT SAVILLE, *Secretary of the Senate*.

