

Journal of the House

SIXTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, May 3, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair.
The roll was called with 120 members present.

Rep. O'Brien was excused on verified illness.

Reps. DiVita, Glasscock, Lloyd and Pottorff were excused on excused absence by the Speaker.

Present later: Reps. Glasscock and Lloyd.

Prayer by Chaplain Chamberlain:

Almighty and generous God, how often we bow our heads in prayer while our hearts are unbowed. How often we begin in praise to soften you up for the unending pleas that we lay at your feet. How often our prayers are for ourselves instead of to you and for others. Forgive us our selfishness as we pray with thanksgiving this day.

Hear our prayers of thanksgiving for freedom, for democracy and for the messy business of making government work. Hear our prayers of thanks that things rarely go exactly the way that we want—for if they did, we would become overly satisfied with our own wisdom. Hear our prayers of thanks that those with whom we disagree sometimes carry the day, because their victories are not part of our defeats, but are the stuff that makes our democracy real. Hear our prayers of thanks that at the end of the day, the things we do are better for having been refined in the crucible of contest and debate for to be ignorant of some things and mistaken in others is the necessary condition of our humanity.

Generous and Almighty God, thank you for the richness of this great land—richness of material resource and of human spirit. Bless us as we continue our work this day in the service of liberty and justice for all. Amen.

The Pledge of Allegiance was led by Rep. Myers.

PRESENTATION OF PETITIONS

The following petition was presented and filed:

HP 2003, by Reps. Hutchins and Tafanelli, a petition expressing concern about the effect of failure to pass the tax relief package requested by Goodyear Topeka Tire Plant, signed by Charles Anderson and 536 others from the Topeka area.

MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **HB 2575** and has appointed Senators Morris, Jordan and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **Sub. HB 2469; HB 2675, HB 2703, Sub. HB 2183.**

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Hayzlett, the House concurred in Senate amendments to **HB 2586**, An act relating to taxation; allowing credits for payments to certain port authorities. (The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 118; Nays 2; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Cook, Hermes.

Present but not voting: None.

Absent or not voting: DiVita, Glasscock, Lloyd, O'Brien, Pottorff.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2469**, 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 41, in line 38, before the semicolon by inserting “. Such written certification shall be approved by an order issued by the court”;

On page 44, in line 19, by striking “(b)(3)” and inserting “(f)”; in line 20, by striking “59-29b49” and inserting “59-29b46”;

On page 46, in line 28, by striking “(b)(3)” and inserting “(f)”; in line 29, by striking “59-29b49” and inserting “59-29b46”;

On page 53, in line 28, by striking “provide for the authority” and inserting “grant discretion to the trustee”;

On page 54, in line 17, after “ward” by inserting “has been”; in line 38, by striking “duly appointed” and inserting “personal”;

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

JOHN VRATIL
DAVID ADKINS
GRETA GOODWIN
Conferees on part of Senate

MICHAEL R. O'NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

On motion of Rep. O'Neal, the conference committee report on **Sub. HB 2469** was adopted.

On roll call, the vote was: Yeas 114; Nays 6; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Grant,

Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Findley, Flora, Kirk, Kuether, Nichols, Spangler.

Present but not voting: None.

Absent or not voting: DiVita, Glasscock, Lloyd, O'Brien, Pottorff.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2675**, submits the following report:

The Senate recedes from all of its amendments to the bill;

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

LES DONOVAN
LARRY P. SALMANS
U.L. GOOCH
Conferees on part of Senate

GARY K. HAYZLETT
JENE VICKREY
MARGARET LONG
Conferees on part of House

On motion of Rep. Hayzlett, the conference committee report on **HB 2675** was adopted.

On roll call, the vote was: Yeas 107; Nays 13; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Dahl, DeCastro, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gilbert, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, L. Powell, T. Powell, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Weber, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Cook, Crow, Dillmore, Gatewood, Goering, Henderson, Kirk, Phelps, Powers, Spangler, R. Toelkes, Vickrey, Wells.

Present but not voting: None.

Absent or not voting: DiVita, Glasscock, Lloyd, O'Brien, Pottorff.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2703**, 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 5, by striking all in lines 7 through 16;

And by renumbering sections accordingly;

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

ROBERT TYSON
MARK TADDIKEN
JANIS K. LEE
Conferees on part of Senate

JOANN FREBORN
DON MYERS
LAURA MCCLURE
Conferees on part of House

On motion of Rep. Freeborn to not adopt the conference committee report on **HB 2703** and that a new conference committee be appointed, the motion was adopted.

Speaker pro tem Aurand thereupon appointed Reps. Freeborn, Myers and McClure as second conferees on the part of House.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Stone in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Stone, Committee of the Whole report, as follows, was adopted:

Recommended that committee report recommending a substitute bill to **Sub. HB 2183** be adopted; also, on motion of Rep. E. Peterson to amend, Rep. J. Peterson moved that the substitute bill be referred to Committee on Taxation. The motion did not prevail.

The question then reverted back to the motion of Rep. E. Peterson and **Sub. HB 2183** be amended on page 4, in line 24, by striking "24" and inserting "25";

On page 16, in line 2, after "licensee" by inserting "or electronic gaming machine contractor"; in line 6, after "with" by inserting "an electronic gaming machine contractor or"; in line 10, after "facility" by inserting "or electronic gaming machine contractor"; in line 16, by striking "at a parimutuel licensee location"; in line 24, after "of" by inserting "an electronic gaming machine contractor or"; in line 30, after "licensee" by inserting "or an electronic gaming machine contractor"; in line 41, after "No" by inserting "electronic gaming machine contractor,";

On page 17, in line 40, by striking "racetrack";

On page 18, in line 5, by striking "within the racetrack facility";

On page 19, after line 12, by inserting an additional section as follows:

"New Sec. 23. (a) Subject to the provisions of subsection (b), the executive director, with the approval of the governor, may contract with a person to operate electronic gaming machines at a single specified location in the state where the executive director determines the operation of such machine would promote tourism and economic development. Such person shall be required to meet all qualifications of a lottery gaming machine contractor which is a parimutuel licensee under this act, other than those qualifications specifically related to operating a parimutuel facility. All provisions of this act applicable to the operation of electronic gaming machines by lottery gaming machine contractors which are parimutuel licensees shall apply to the operation of such machines. Such specified location shall not be within a 75 mile radius of a parimutuel licensee location.

(b) If more than one person wishes to contract to become a lottery machine operator pursuant to this section, the executive director, in determining which such person to contract with, shall take into consideration the following factors: The size of the proposed facility, the estimated number of tourists that would be attracted by the proposed facility, the number of electronic gaming machines planned to be operated at the proposed facility, the amount of the contract privilege fee proposed to be paid by the operator, the amount of the management fee proposed to be paid to the operator and amounts proposed to be paid by the operator to the city and county where the facility will be located.

(c) Not less than once each week, the state treasurer shall transfer the following percentages of the balance remaining after transfer of moneys pursuant to subsection (b) of section 8, in the account in the electronic gaming machine fund for receipt of moneys from the lottery gaming machine contractor which is authorized pursuant to this section:

(1) To the lottery gaming machine contractor, 60% less any amount paid to a city and county pursuant to paragraph 5;

(2) to the electronic gaming machine operation and regulation fund, 1%;

(3) to the problem gambling grant fund established pursuant to K.S.A. 2001 Supp. 79-4805, and amendments thereto, 0.5%, except that such transfer shall be to the credit of the state general fund at such time as the balance in such fund is equal to the amount of \$4,000,000, but if the balance in such fund falls below the amount of \$3,000,000, such transfers shall resume;

(4) to the state tourism fund, 2%;

(5) to the state general fund, 36.5%; and

(6) to the city and county in which the electronic gaming machine operator is located, such amount as may be specified by contract.

(d) Electronic gaming machines shall be operated pursuant to this section only if the qualified voters of the county have voted by a majority to permit operation of electronic gaming machines within the county as follows:

The board of county commissions of the county may submit by resolution to the qualified voters of the county a proposition to permit the operation of electronic gaming machines within the county. The proposition shall be submitted to the voters at a countywide special election called by the board of county commissioners for that purpose and held not less than 90 days after the resolution is adopted. Upon the adoption of the resolution, the county election officer shall cause the following proposition to be placed on the ballot at the election called for that purpose: "Shall the operation of electronic gaming machines by the Kansas lottery be permitted in _____ county?" If a majority of the votes cast and counted at such election are in favor of permitting the operation of such machines within the county, the Kansas lottery may enter a contract pursuant to subsection (a) for operation of such machines in the county. If less than a majority of the votes cast and counted at an election under this section are against permitting the operation of electronic gaming machines within the county, the Kansas lottery shall not contract pursuant to subsection (a) for the operation of such machines within the county. The county election officer shall transmit a copy of the certification of the results of the election to the executive director and to the Kansas racing and gaming commission.

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

(f) If in any election provided for by this section a majority of the votes cast and counted is against permitting the operation of electronic gaming machines in the county, another election submitting the issue of the operation of electronic gaming machines in the county shall not be held for at least four years from the date of such election.";

By renumbering sections accordingly;

Also, on motion of Rep. Hutchins to amend **Sub. HB 2183**, the motion did not prevail.

Also, on further motion of Rep. E. Peterson **Sub. HB 2183** be amended on page 15, in line 30, after the comma by inserting "state elected official, "; also in line 30, after "an" by inserting "elected official or";

Also, on motion of Rep. Wilson **Sub. HB 2183** be amended on page 12, in line 19, after "66%" by inserting ", except that at the parimutuel licensee location located in Crawford county, the lottery gaming machine contractor shall receive 65.80%, 0.10% of the money credited to the account of the electronic gaming machine contractor located in Crawford county shall be deposited to the credit of the Frontenac bison maintenance fund created pursuant to section 27, and amendments thereto and 0.10% of the money credited to the account of the electronic gaming machine contractor located in Crawford county shall be deposited to the credit of the U.S. 69 highway maintenance fund created pursuant to section 28, and amendments thereto";

On page 21, after line 3, by inserting a new section as follows:

"New Sec. 27. (a) There is hereby created within the state treasury the Frontenac bison maintenance fund. All expenditures from the fund shall be made for the purpose of maintaining, developing and expanding the display of bison by the department of wildlife and parks on land owned by the department in Frontenac, Kansas.

(b) All expenditures from the fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife and parks or the secretary's designee.”;

By renumbering the existing sections accordingly;

Also, on motion of Rep. Grant to amend **Sub. HB 2183**, the motion was withdrawn. Also, on further motion of Rep. Grant be amended on page 21, after line 3, by inserting a new section as follows:

“New Sec. 28. (a) There is hereby created the U.S. 69 highway maintenance fund. All money credited to such fund shall be expended for the purpose of providing road maintenance to U.S. 69 highway.

(b) All expenditures from such fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or the secretary's designee. At such time as the city of Frontenac becomes responsible for maintenance of portions of U.S. 69 highway, all funds credited to such fund shall be paid to the city of Frontenac.”;

By renumbering the existing sections accordingly;

Also, on motion of Rep. Dillmore to amend **Sub. HB 2183**, the motion did not prevail. Also, on motion to recommend **Sub. HB 2183** favorably for passage, the motion did not prevail.

Also, having voted on the prevailing side, Rep. Garner moved that the House reconsider its action in not recommending **Sub. HB 2183** favorably for passage. The motion prevailed.

The question reverted back to the motion to recommend **Sub. HB 2183** favorably for passage. The motion prevailed and the substitute bill be passed as amended.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2020**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Mays, the House nonconcurred in Senate amendments to **HB 2020** and asked for a conference.

Speaker pro tem Aurand thereupon appointed Reps. Mays, Hutchins and Thimesch as conferees on the part of the House.

REPORTS OF STANDING COMMITTEES

The Committee on **Utilities** recommends **Substitute for SB 614** be passed.

On motion of Rep. Weber, the House recessed until 2:30 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **Sub. HB 2686; HB 2729, HB 2880; Sub. SB 467; SB 541**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Substitute for HB 2686**, submits the following report:

The Senate recedes from all of its amendments to the bill;

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

ROBERT TYSON
MARK TADDIKEN
JANIS K. LEE
Conferees on part of Senate

JOANN LEE FREEBORN
DON MYERS
VAUGHN L. FLORA
Conferees on part of House

On motion of Rep. Freeborn, the conference committee report on **Sub. HB 2686** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: DiVita, O'Brien, Pottorff, T. Powell.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2729**, 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 34, by striking "employer's" and inserting "employers";

On page 10, in line 16, by striking "disclose" and inserting "disclosure"; in line 34, by striking "1" and inserting "4";

On page 11, by striking all after line 18;

By striking all on page 12;

On page 13, by striking all before line 39;

By renumbering the remaining sections accordingly

On page 15, in line 41, by striking "affords" and inserting "afford";

On page 17, in line 2, by striking "and 44-510i";

In the title, on page 1, in line 12, by striking "and 44-510i";

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

KARIN S. BROWNLEE
NICK JORDAN
JIM BARONE
Conferees on part of Senate

AL LANE
JOE HUMERICKHOUSE
L. CANDY RUFF
Conferees on part of House

On motion of Rep. Lane, the conference committee report on **HB 2729** was adopted.

On roll call, the vote was: Yeas 118; Nays 1; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: DiVita, Edmonds, Huff, Larkin, O'Brien, Pottorff.

EXPLANATIONS OF VOTE

MR. SPEAKER: I was in a conference committee in the Speaker's office and missed the final action on the conference report on **HB 2729**. I would have voted yea.—BRUCE LARKIN

MR. SPEAKER: I was in a conference meeting when **HB 2729** vote was taken. I would have voted yes but I was not informed the vote was being taken.—DAVID HUFF

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2880**, submits the following report:

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

On page 4, after line 12 by inserting the following:

“Sec. 2. K.S.A. 2001 Supp. 65-448 is hereby amended to read as follows: 65-448. (a)

Upon the request of any law enforcement officer and with the written consent of the reported victim, any physician, *a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection*, on call or on duty at a medical care facility of this state, as defined by subsection (h) of K.S.A. 65-425, and amendments thereto, shall examine persons who may be victims of sexual offenses cognizable as violations of K.S.A. 21-3502, 21-3503, 21-3504, 21-3505, 21-3506, 21-3602 or 21-3603, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime. If the physician, *licensed physician assistant or registered professional nurse* refuses to perform such physical examination the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, *licensed physician assistant or registered professional nurse* to enforce the provisions of this act. Any refusal by a physician, *licensed physician assistant or registered professional nurse* to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts *or the board of nursing, whichever is applicable*, for appropriate disciplinary action. The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The hospital or medical facility shall give written notice to the parent or guardian of a minor that such an examination has taken place.

(b) Costs of conducting an examination of a victim as herein provided including the costs of the sexual assault evidence collection kits shall be charged to and paid by the county where the alleged offense was committed. Such county may charge the defendant for the costs paid herein as court costs assessed pursuant to K.S.A. 28-172a or 28-172c, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 13, by striking “is” and inserting “and 65-448 are”; in line 15, by striking “statute book” and inserting “Kansas register”;

In the title, on page 1, in line 13, after the semicolon by inserting “examination of victims of sexual assault;”; also in line 13, after “and” by inserting “65-448 and”; in line 14, by striking “section” and inserting “sections”;

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

JOHN VRATIL
GRETA GOODWIN
DAVID AKINS
Conferees on part of Senate

MICHAEL R. O'NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

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

On roll call, the vote was: Yeas 117; Nays 4; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Crow, Garner, Huebert, Spangler.

Present but not voting: None.

Absent or not voting: DiVita, Glasscock, O'Brien, Pottorff.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 467**, 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 40, by striking “during the”; in line 41, by striking “preceding 36 months”; in line 42, before “application” by inserting “express authorization.”;

On page 2, in line 21, after “agreeing” by inserting “to”; in line 37, before the period by inserting “or in electronic mail messages, other than messages of a sexually explicit or otherwise adult oriented nature, sent to less than 500 recipients per month”;

On page 3, in line 8, before the period by inserting “and the legal name of the person or entity initiating the transmission, including such person’s or entity’s (i) physical address for the receipt of the United States mail or (ii) a toll free telephone number that the recipient may call to notify the sender not to send any subsequent communications”;

On page 4, after line 30, by inserting the following:

“(k) It shall be an affirmative defense to a violation of this section if the person can demonstrate, by clear and convincing evidence, (1) that the sender at the time of the alleged violation had: (A) Maintained a list of consumers who have notified the person not to send any subsequent commercial electronic messages; (B) established and implemented, with due care, reasonable practices and procedures to effectively prevent unsolicited commercial electronic mail messages in violation of this section; (C) trained the sender’s personnel in the requirements of this section; and (D) maintained records demonstrating compliance with this section; and (2) the unsolicited commercial electronic message was the result of an error. Such defense shall not be exercised by any person more than once within the state of Kansas in any 12-month period. A person shall be deemed to have exercised such defense if asserted in response to any consumer complaint about a violation of this section, regardless of whether litigation has been initiated.”;

Also on page 4, in line 31, by striking “(k)”; in line 34, before “The” by inserting “(l)”; in line 40, by striking “(l)” and inserting “(m)”; by striking all of lines 42 and 43;

On page 5, by striking all of lines 1 through 43;

On page 6, by striking all of lines 1 through 10;

And by renumbering the remaining section accordingly;

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

MICHAEL R. O’NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

KARIN S. BROWNLEE
NICK JORDAN
JIM BARONE
Conferees on part of Senate

On motion of Rep. O’Neal, the conference committee report on **Sub. SB 467** was adopted.

On roll call, the vote was: Yeas 99; Nays 22; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Feuerborn, Findley, Flaherty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Lane, Larkin, Levinson, Lloyd, Loganbill, M. Long, Loyd, Mayans, Mays, McClure, McCreary, McKimney, Merrick, Minor, Judy Morrison, Myers, Neufeld, Newton, Nichols, O’Neal, Owens, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Wimm.

Nays: Aday, Burroughs, Cook, Faber, Huebert, Huy, Krehbiel, Light, Lightner, P. Long, Mason, McLeland, Miller, Jim Morrison, Novascone, Osborne, Ostmeyer, Palmer, Pyle, Spangler, Tafanelli, Vickrey.

Present but not voting: None.

Absent or not voting: DiVita, Glasscock, O’Brien, Pottorff.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 541**, submits the following report:

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

On page 1, by striking all in lines 21 through 43;

On page 2, by striking all in lines 1 through 12;

By renumbering section 2 as section 1;

Also on page 2, by striking all in lines 42 and 43;

On page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1, 2 and 3; following line 3, by inserting:

“Sec. 2. K.S.A. 48-928, as amended by section 2 of 2002 Senate Bill No. 629, is hereby amended to read as follows: 48-928. In addition to other duties imposed under this act, the division of emergency management shall:

(a) Determine the requirements of the state and the counties and cities thereof for food, clothing and other necessities in event of a disaster;

(b) procure and distribute about the state, such supplies, medicines, materials and equipment which are deemed necessary for use during a disaster;

(c) promulgate standards and requirements for local and interjurisdictional disaster emergency plans including adequate provisions for the rendering and receipt of mutual aid;

(d) periodically examine or review and approve local and interjurisdictional disaster emergency plans which are in accordance with the standards and requirements promulgated therefor;

(e) establish and operate training or public information programs relating to emergency management, and assist counties and cities, the disaster agencies of such counties or cities and interjurisdictional disaster agencies, in the establishment and operation of such programs;

(f) make surveys of industries, resources and facilities within the state, both public and private, as are necessary to carry out the purposes of this act;

(g) plan and make arrangements for the availability and use of any private facilities, services and property for emergency management activities and, if necessary and if in fact used, provide for payment for such use under terms and conditions agreed upon;

(h) establish a register of persons with types of training and skills important in emergency management activities;

(i) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(j) prepare drafts of orders or proclamations for the governor as necessary or appropriate in coping with disasters;

(k) serve, for all those agencies which regulate any matter affecting the transportation of hazardous materials:

(1) As the coordinating and supervising state agency; and

(2) to provide continuing liaison between such state agencies;

(l) establish an informational system under which state agencies shall notify the division of emergency management;

(m) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster prevention, preparation response and recovery;

(n) under the direction of the adjutant general, develop a regional emergency management system which includes the use of regional coordinators that provide training and preparation of state, county, city and interjurisdictional disaster agencies to prevent, respond to, mitigate and recover from emergency and disaster situations; ~~and~~

(o) under the direction of the adjutant general, implement the use of an incident management system during emergency and disaster situations by all state, county, city and interjurisdictional disaster agencies which respond to such emergency or disaster situations;

(p) *develop and administer a program to provide financial assistance to cities, counties or interjurisdictional disaster agencies for the development and implementation of a terrorism preparedness program. Such program shall provide criteria for receiving such financial assistance and such other conditions as the division may deem necessary; and*

(q) *develop, implement and administer, with the assistance and advice of the commission on emergency planning and response, a plan for regional emergency medical response teams.”;*

By renumbering sections accordingly;

On page 15, in line 20, following “48-928”, by inserting “, as amended by section 2 of 2002 Senate Bill No. 629,”; in line 21, by striking “48-904,”;

In the title, in line 12, by striking "developing"; by striking all in line 13; in line 14, by striking all before the semicolon and inserting "concerning the powers and duties thereof"; in line 16, following "48-928" by inserting ", as amended by section 2 of 2002 Senate Bill No. 629,"; also in line 16, by striking all after "44-511,"; in line 17, by striking "904,";

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

CARL C. KREHBIEL
LEE E. TANFANELL
JOE SHRIVER
Conferees on part of House

PETE BRUNGARDT
JIM BARNETT
U.L. GOOCH
Conferees on part of Senate

On motion of Rep. Krehbiel, the conference committee report on **SB 541** was adopted.

On roll call, the vote was: Yeas 109; Nays 12; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Hutchins, Johnson, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, Merrick, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, Wilson, Winn.

Nays: Cook, Howell, Huebert, Huy, Kauffman, Mayans, McLeland, Miller, Novascone, Powers, Pyle, J. Williams.

Present but not voting: None.

Absent or not voting: DiVita, Glasscock, O'Brien, Pottorff.

CHANGE OF CONFEREES

Speaker pro tem Aurand announced the appointment of Reps. O'Neal, Loyd and Pauls as members of the conference committee on **SB 35** to replace Reps. Edmonds, Merrick and Larkin.

Also, Speaker pro tem Aurand announced the appointment of Reps. O'Neal, Loyd and Pauls as members of the conference committee on **SB 69** to replace Reps. Edmonds, Huff and Larkin.

On motion of Rep. Weber, the House recessed until the sound of the gavel.

LATE AFTERNOON SESSION

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

MESSAGE FROM THE SENATE

Announcing passage of **SB 656**.

Announcing passage of **HB 3003**.

Announcing passage of **Sub. HB 2285**, as amended; **HB 2828**, as amended.

The Senate concurs in House amendments to **H. Sub. for SB 486**, and requests return of the bill.

The Senate concurs in House amendments to **Sub. SB 513**.

The Senate adopts conference committee report on **HB 2812**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bill was thereupon introduced and read by title:

SB 656.

REPORT ON ENGROSSED BILLS

Sub. HB 2469 reported correctly engrossed May 3, 2002.

HB 2586 reported correctly re-engrossed May 3, 2002.

On motion of Rep. Wilk, the House adjourned until 11:00 a.m., Saturday, May 4, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

