

# Journal of the House

SIXTY-SECOND DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, May 6, 2003, 9:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.

The roll was called with 121 members present.

Reps. Ballou, O'Neal, Pottorff and Schwab were excused on excused absence by the Speaker.

Present later: Rep. Ballou, O'Neal and Schwab.

Prayer by Rep. Bethell:

Dear Lord,

You are keenly aware of the decisions that are before us today. Hopefully our last day. Your word tells us that we make our plans, but you direct our footsteps.

We ask that you make us aware of your will. Keep our minds firmly fixed on your will for the people of Kansas. Guide our deliberations. See that as we disagree, we do not become disagreeable.

Amen.

The Pledge of Allegiance was led by Rep. Merrick.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committee as indicated:

Utilities: **HB 2473**.

## MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **HB 2205**.

The Senate adopts conference committee report on **HB 2423**.

The Senate concurs in House amendments to **SB 109**, and requests return of the bill.

The Senate nonconcurrs in House amendments to **SB 285**, requests a conference and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2287** and has appointed Senators Corbin, Donovan and Lee as conferees on the part of the Senate.

## INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 285**.

Speaker Mays thereupon appointed Reps. Neufeld, Shultz and Nichols as conferees on the part of the House.

## INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, 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 2423**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2423**, 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.

STEPHEN R. MORRIS  
DAVID ADKINS  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

MELVIN J. NEUFELD  
CLARK SHULTZ  
ROCKY NICHOLS  
*Conferees on part of House*

On motion of Rep. Neufeld, the conference committee report on **HB 2423** was adopted.

On roll call, the vote was: Yeas 101; Nays 19; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Burgess, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Gordon, Grant, Hayzlett, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Krehbiel, Kuether, Landwehr, Light, Loganbill, M. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, Osborne, Owens, Pauls, Peterson, Phelps, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder.

Nays: Brunk, Burroughs, Carter, Faber, Goering, Goico, Henderson, Howell, Huebert, Huy, Kauffman, Klein, Larkin, P. Long, F. Miller, Ostmeyer, Patterson, Powers, Schwartz.

Present but not voting: None.

Absent or not voting: Ballou, O'Neal, Pottorff, Schwab, Yonally.

On motion of Rep. Aurand, the House recessed until 11:00 a.m.

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**LATE MORNING SESSION**

The House met pursuant to recess with Speaker Mays in the chair.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Minor in the chair.

**COMMITTEE OF THE WHOLE**

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

Recommended that **HB 2464** (committee report previously adopted, see HJ, p. 674) be amended on page 1, in line 16, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 2, in line 24, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 3, in line 11, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 4, in line 26, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 5, in line 23, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 6, in line 16, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,"; in line 36, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 7, in line 29, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 10, in line 16, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 12, in line 29, before "K.S.A." by inserting "On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act,";

On page 13, in line 10, by striking "July 1, 1990, to June 30, 1991" and inserting "January 1, 2004, through December 31, 2004"; also in line 10, by striking " $\frac{2}{3}$ " and inserting "40%"; in line 12, by striking " $\frac{1}{6}$ " and inserting "20%"; in line 13, by striking " $\frac{1}{6}$ " and inserting "40%"; in line 14, by striking "correctional institutions building" and inserting "state general"; following line 14 by inserting the following:

"New Sec. 11. (a) There is hereby levied in the year 2003, a state tax of .6 mill upon all taxable tangible property in the state. Such tax levy shall be in addition to all other state tax levies authorized by law. Such tax levy shall be for the use and benefit of the state general fund.

(b) The county treasurer of each county shall make the proceeds of the tax levy provided for in this section available to the state treasurer immediately upon collection. When available the state treasurer shall withdraw from each county the proceeds of the taxes raised by such tax levy. Upon such withdrawal the state treasurer shall deposit the same in the state treasury.

(c) All moneys received by the state treasurer under this section shall be credited to the state general fund.

(d) The provisions of this section shall not take effect and no tax shall be levied under this section unless the notice prescribed by section 15 of this act has been published in the Kansas register on or before September 30, 2003. If the notice has been published as prescribed by section 15 of this act in the Kansas register on or before September 30, 2003, then the provisions of this section shall take effect and be in force from and after October 1, 2003.

Sec. 12. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b01 is hereby amended to read as follows: 76-6b01. (a) There is hereby levied an annual permanent state tax upon all tangible property in this state which is subject to ad valorem taxation. The tax levy shall be ~~1.7~~ .6 mill in the year ~~1993~~ 2003 and 1 mill in the year ~~1994~~ 2004 and each year thereafter until changed by statute. Such tax levy shall be in addition to all other state tax levies authorized by law. Such tax levy shall be for the use and benefit of the state institutions of higher education. The proceeds of such tax levy shall be apportioned in accordance with this act.

(b) The county treasurer of each county shall make the proceeds of the tax levy provided for in this section available to the state treasurer immediately upon collection. When available the state treasurer shall withdraw from each county the proceeds of the taxes raised by such tax levy. Upon such withdrawal the state treasurer shall deposit the same in the state treasury and shall credit the same as provided in K.S.A. 76-6b02.

Sec. 13. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b04 is hereby amended to read as follows: 76-6b04. (a) There is hereby levied an annual permanent state tax upon all tangible property in this state which is subject to ad valorem taxation. The tax levy shall be ~~.25~~ .3 mill in the year ~~1990~~ 2003 and .5 mill in the year ~~1991~~ 2004 and each year thereafter until changed by statute. The tax levy shall be in addition to all other state tax levies authorized by law. The tax levy shall be for the use and benefit of state institutions caring for persons who are mentally ill, retarded, visually handicapped, with a handicapping hearing loss or tubercular or state institutions caring for children who are deprived, wayward, miscreant, delinquent, children in need of care or juvenile offenders and who are in need of residential care or treatment, or institutions designed primarily to provide vocational rehabilitation for handicapped persons. As used in this section, "state institutions" shall include, but not be limited

to, those institutions under the authority of the commissioner of juvenile justice. The proceeds of such tax levy shall be apportioned in accordance with this act.

(b) The county treasurer of each county shall make the proceeds of the tax levy provided for in this section available to the state treasurer immediately upon collection. When available, the state treasurer shall withdraw from each county the proceeds of the taxes raised by such tax levy. Upon such withdrawal the state treasurer shall deposit the same in the state treasury and shall credit the same as provided in K.S.A. 76-6b05 and amendments thereto.

Sec. 14. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b11 is hereby amended to read as follows: 76-6b11. (a) *Except as provided in subsection (e)*, on July 1 of each year, the director of accounts and reports shall record a debit to the state treasurer's receivables for the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ *state general* fund and shall record a corresponding credit to each such fund in an amount equal to 95% of the amount credited respectively to each such fund during the immediately preceding fiscal year, except that such amount shall be proportionally adjusted with respect to any such fund in any fiscal year for any change in the tax levy rate for any such fund.

(b) All taxes received by the state treasurer under K.S.A. 76-6b01, 76-6b04 and ~~76-6b09~~ *section 15* and amendments thereto during the current fiscal year shall be deposited in the state treasury to the credit of the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ *state general* fund, respectively, and shall reduce the amount debited and credited to such funds under subsection (a).

(c) On June 30 of each year, the director of accounts and reports shall adjust the amounts debited and credited to the state treasurer's receivables and to the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ *state general* fund pursuant to this section, to reflect the taxes actually received by the state treasurer and deposited during the fiscal year in the state treasury to the credit of each such fund.

(d) The director of accounts and reports shall notify the state treasurer of all amounts debited and credited to the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ *state general* fund pursuant to this section and all reductions and adjustments thereto made pursuant to this section. The state treasurer shall enter all such amounts debited and credited and shall make reductions and adjustments thereto on the books and records kept and maintained for such funds by the state treasurer in accordance with the notice thereof.

(e) *On October 1, 2003, the director of accounts and reports shall make such adjustments and amendments as may be required to reflect and account for the property tax imposed by section 11 as if such tax had been in effect on July 1, 2003.*

New Sec. 15. (a) On or after August 1, 2003, and before September 30, 2003, the governor shall consult with the director of the budget, the secretary of revenue, each legislative member of the state finance and such other state and local government officers and advisors as the governor deems appropriate, and the governor shall then determine whether or not it is in the best interest of the state to implement the provisions of this act. In making such determination, the governor shall review and consider appropriate estimates of revenues to the state general fund and all other state funds, relevant economic data and projections, the information contained in the approved budget for state agencies for fiscal year 2004, and may consider such additional information and may apply analyses as the governor deems appropriate in making such determination and finding.

(b) After reviewing and considering such information and advice, if the governor determines and finds that it is in the best interest of the state to implement the provisions of this act, then the governor shall publish a notice in the Kansas register on or before September 30, 2003, that it is in the best interest of the state to implement the provisions of this act. Upon publication of such notice in the Kansas register, this act shall be effective to amend the statutes respectively amended in sections 1 through 10 and sections 12 through 14 as provided in such sections and to enact the state property tax levy for 2003 for the purposes of the state general fund as provided in section 11.

(c) As used in this section, “implement the provisions of this act” means amend the provisions of K.S.A. 12-1678a, as amended by section 1 of this act, 72-6431, as amended by section 2 of this act, 76-6b01, as amended by section 12 of this act, 76-6b04, as amended by section 13 of this act, 76-6b11, as amended by section 14 of this act, 79-2004, as amended by section 4 of this act, 79-2004a, as amended by section 5 of this act, 79-2017, as amended by section 8 of this act, 79-2201, as amended by section 6 of this act, and 79-5109, as amended by section 10 of this act, and K.S.A. 2002 Supp. 79-6a04, as amended by section 3 of this act, 79-2101, as amended by section 9 of this act, and 79-4521, as amended by section 7 of this act, and to provide for a state property tax levy for 2003 for the purposes of the state general fund as provided in section 11.

Sec. 16. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b01, 76-6b04, and 76-6b11 are hereby repealed.”;

And by renumbering sections accordingly;

Also on page 13, in line 15, before “K.S.A.” by inserting “On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act.”; in line 19, by striking “January 1, 2004, and”;

On page 1, in the title, in line 11, before “79-2004” by inserting “76-6b01, 76-6b04, 76-6b11.”; and **HB 2464** be passed as amended.

#### INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Aurand pursuant to House Rule 2311, **HB 2464** was advanced to Final Action on Bills and Concurrent Resolutions.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 2464**, An act concerning property taxation; relating to time for payment; amending K.S.A. 12-1678a, 72-6431, 76-6b01, 76-6b04, 76-6b11, 79-2004, 79-2004a, 79-2017, 79-2201 and 79-5109 and K.S.A. 2002 Supp. 79-6a04, 79,2101 and 79-4521 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 75; Nays 47; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Beggs, Betts, Carlin, Craft, Crow, Dahl, DeCastro, Decker, Dillmore, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Grant, Hayzlett, Henderson, Holmes, Huff, Humerickhouse, Hutchins, D. Johnson, E. Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, Mason, Mays, McKinney, McLeland, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Osborne, Ostmeyer, Owens, Patterson, Pauls, Peterson, Phelps, Powell, Reardon, Rehorn, Ruff, Sawyer, Schwartz, B. Sharp, Showalter, Shriver, Shultz, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, J. Williams, Wilson, Winn.

Nays: Barbieri-Lightner, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carter, Compton, Cox, Davis, Dreher, Edmonds, Faber, Feuerborn, Goering, Goico, Gordon, Henry, Hill, Holland, Horst, Howell, Huebert, Huntington, Huy, Jack, Kassebaum, Klein, P. Long, Loyd, McCreary, F. Miller, Neighbor, Novascone, O'Malley, Powers, Reitz, S. Sharp, Siegfried, Sloan, Tafanelli, Vickrey, Wilk, D. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: O'Neal, Pottorff, Schwab.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. SPEAKER: Because of my concern about how acceleration of the payment of property tax may adversely affect elderly homeowners and farm families, I vote no on **HB 2464**.—  
DEENA HORST

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Patterson, 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 2205**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2205**, 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 8, following line 3, by inserting the following:

“Sec. 7. K.S.A. 2002 Supp. 79-2804g is hereby amended to read as follows: 79-2804g.

(a) Whenever any tract, lot or piece of real estate is offered for sale at public auction pursuant to K.S.A. 79-2804, and amendments thereto, such tract, lot or piece of real estate shall not be sold, either directly or indirectly, to:

(1) Any person having a statutory right to redeem such real estate prior to such sale, pursuant to the provisions of K.S.A. 79-2803, and amendments thereto, *except that this paragraph (1) shall not prohibit sale to any person or such person’s assignee who held an interest in such real estate as mortgagee of record at the time of the sale;*

(2) any parent, grandparent, child, grandchild, spouse, sibling, trustee or trust beneficiary who held an interest in a tract as owner or holder of the record title or who held an interest at any time when any tax constituting part of the county’s judgment became due; or

(3) with respect to a title holding corporation, any current or former stockholder, current officer or director, or any person having a relationship enumerated in paragraph (2) to such stockholder, officer or director.

(b) If any such real estate is acquired by a county pursuant to K.S.A. 79-2804, and amendments thereto, and, at the end of six months from and after confirmation of such sale to the county, such real estate is advertised for sale at public auction, as provided in K.S.A. 79-2804f, and amendments thereto, such real estate shall not be sold, either prior to or at such auction, to any person having a statutory right to redeem such real estate, under the provisions of K.S.A. 79-2803, and amendments thereto, for an amount less than the original judgment lien and interest thereon, plus the costs, charges and expenses of the proceedings and sale, as set forth in the execution and order of sale issued pursuant to K.S.A. 79-2804, and amendments thereto.

(c) If any tract, lot or piece of real estate purchased at public auction pursuant to K.S.A. 79-2804, and amendments thereto, is transferred, sold, given or otherwise conveyed to any person who had a statutory right to redeem such real estate prior to such sale pursuant to K.S.A. 79-2803, and amendments thereto, within 10 years of the date of the public auction, such person shall be liable for an amount equal to the original judgment lien and interest thereon from the date of the public auction, *except that this subsection shall not apply to any person or such person’s assignee who held an interest in such real estate as mortgagee of record at the time of the sale.*

(d) The provisions of this section shall apply to the sale or conveyance of any real estate by a county land bank established pursuant to K.S.A. 2002 Supp. 19-26,104, *and amendments thereto.*

Sec. 8. K.S.A. 79-2804h is hereby amended to read as follows: 79-2804h. No sale of real estate as provided for in article 28 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, shall be confirmed as provided for in K.S.A. 79-2804, *and amendments thereto*, until the purchaser at the sale; ~~shall file files~~ with the clerk of the court, an affidavit stating that the purchase of the real estate was not made, either directly or indirectly, for any person having the statutory right to redeem, *other than any person or such person’s assignee who held an interest in such real estate as mortgagee of record at the time of the sale.*”;

And by renumbering the remaining sections accordingly;

Also on page 8, in line 4, by striking “and” where it first appears and inserting a comma; also in line 4, after “79-503a” by inserting “and 79-2804h”; in line 5, after “79-213” by inserting “and 79-2804g”;

On page 1, in the title, in line 20, after the semicolon, by inserting “relating to the sale of real estate for delinquent taxes.”; also in line 20, by striking “and” and inserting a comma;

also in line 20, after "79-503a" by inserting "and 79-2804h"; in line 21, after "79-213" by inserting "and 79-2804g";

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

DAVID R. CORBIN  
LES DONOVAN  
JANIS K. LEE  
*Conferees on part of Senate*

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

On motion of Rep. Patterson, the conference committee report on **HB 2205** was adopted.

On roll call, the vote was: Yeas 112; Nays 10; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, Osborne, Ostneyer, Owens, Patterson, Pauls, Peterson, Phelps, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafaneli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Edmonds, Faber, Goering, Goico, Howell, Huebert, Huy, Kassebaum, Klein, F. Miller.

Present but not voting: None.

Absent or not voting: O'Neal, Pottorff, Schwab.

On motion of Rep. Aurand, the House recessed until 2:00 p.m.

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## AFTERNOON SESSION

The House met pursuant to recess with Speaker Mays in the chair.

### MESSAGE FROM THE SENATE

The Senate concurs in House amendments to **SB 281**, and requests return of the bill.

The Senate adopts conference committee report on **HB 2005**.

The Senate adopts conference committee report on **HB 2014**.

### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, 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 2005**.

### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2005**, submits the following report:

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

On page 1, in line 29, before "K.S.A." by inserting "On and after July 1, 2003,";

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

“Sec. 2. On and after July 1, 2003, K.S.A. 12-192 is hereby amended to read as follows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers’ sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year, and (2) ½ of all revenue received by the director of taxation from such countywide retailers’ sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) As an alternative and in lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers’ sales tax imposed within Johnson county at the rate of .75% or 1% after the effective date of this act may be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first .5% rate of tax shall be apportioned in the manner prescribed by subsection (a) and (B) the revenue received from the rate of tax exceeding .5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year and (ii) one-fourth shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term “total tangible property tax levies” means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term “total tangible property tax levies” for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.



(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to paragraphs (2), (6), (7), (8) ~~or~~, (9) or (12) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. ~~2001 Supp.~~ 74-8929, and amendments thereto. All such revenue collected under K.S.A. ~~2001 Supp.~~ 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund established by K.S.A. ~~2001 Supp.~~ 74-8927, and amendments thereto, for the period of time set forth in K.S.A. ~~2001 Supp.~~ 74-8927, and amendments thereto.”;

And by renumbering sections accordingly;

Also on page 3, in line 15, before “K.S.A.” by inserting “On and after July 1, 2003,”; in line 21, by striking “or using, consuming or realizing the benefits from within”; by striking all in line 22; in line 23, by striking all before “is”;

On page 4, in lines 17 and 42, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 15, in line 22, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 21, in line 30, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 42, in line 20, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 44, in line 20, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 45, in lines 6 and 39, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 47, by striking all in lines 26 through 43;

On page 48, by striking all in lines 1 through 5;

On page 60, in line 17, after “28.” by inserting “(a)”; also in line 17, by striking “this act” and inserting “sections 12 through 28 and amendments thereto”; after line 19, by inserting the following:

“(b) The provisions of sections 12 through 28 shall be effective on and after July 1, 2003.”;

Also on page 60, by striking all in lines 20 through 43;

By striking all on pages 61 through 67;

On page 68, by striking all in lines 1 through 31;

And by renumbering sections accordingly;

Also on page 68, in line 32, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 69, in lines 5 and 42, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 70, in line 29, before “K.S.A.” by inserting “On and after July 1, 2003,”;

On page 71, in line 31, after “Butler,” by inserting “Chase,”; in line 43, after “Butler,” by inserting “Chase,”;

On page 74, after line 29, by inserting the following:

“(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers’ sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers’ sales tax at a rate of .4% and pledging the revenue received therefrom as follows: 50% of such revenues for the purpose of financing for economic development initiatives; and 50% of such revenues for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after seven years from the date such tax is first collected.”;

On page 76, after line 14, by inserting the following:

“Sec. 33. On and after July 1, 2003, K.S.A. 2002 Supp. 12-189 is hereby amended to read as follows: 12-189. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers’ sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers’ sales tax shall be fixed in the amount of .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers’ sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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

Sec. 34. On and after July 1, 2003, K.S.A. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the ~~2001-02 school year and in the 2002-03 school year~~ *2003-04 and 2004-05 school years*.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 1 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 35. K.S.A. 74-2433 is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of ~~five~~ *three* members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. After ~~January 15, 1999, three~~ *the effective date of this act, one* of such members shall: ~~(1) have been regularly admitted to practice law in the state of Kansas; and (2) for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; or; and one of such members shall have engaged in active practice as a certified public accountant who has maintained registration as an active attorney with the Kansas supreme court, or any combination thereof for a period of at least five years. No successor shall be appointed for the two members of the board whose terms of office expired on January 15, 2003, and if any such appointment is made prior to the effective date of this act, any such member's term of office shall expire on the effective date of this act.~~ Except as provided by K.S.A. 46-2601, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than ~~three~~ *two* members of the board shall be of the same political party. Members of the board shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, ~~no more than one shall be appointed from each any one of the congressional districts of Kansas and the remainder from the state at large.~~ The members of the board shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, accounting or appraisal training and experience. Members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of *stare decisis* limited to published decisions of an appellate court other than a district court. Members shall hold office for terms of four years and until their successors are appointed and confirmed. *Except as otherwise provided*, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, the governor shall appoint a successor to fill the vacancy for the unexpired term. The governor shall select one of its members to serve as chairperson. The votes of ~~three~~ *two* members shall be required for any action to be taken by the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member of the state board of tax appeals may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined

by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such duties as directed by the board.

(d) Appeals decided by the state board of tax appeals which are deemed of sufficient importance to be published shall be published by the board.

(e) After appointment, members of the state board of tax appeals shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws and; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

Sec. 36. On and after July 1, 2003, K.S.A. 2002 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2001 and 2002~~ 2003 and 2004, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 37. On and after July 1, 2003, K.S.A. 2002 Supp. 79-3295 is hereby amended to read as follows: 79-3295. (a) The term "employee" means a resident of this state as defined by subsection (b) of K.S.A. 79-32,109, and amendments thereto, performing services for an employer either within or without the state and a nonresident performing services within this state, and includes an officer, employee or elected official of the United States, a state, territory, or any political subdivision thereof or any agency or instrumentality thereof, and an officer of a corporation.

(b) The term "employer" means any person, firm, partnership, limited liability company, corporation, association, trust or fiduciary of any kind or other type organization qualifying as an employer for federal income tax withholding purposes and who maintains an office, transacts business in or derives any income from sources within the state of Kansas for whom an individual performs or performed any services, of whatever nature, as the employee of such employer, and who has control of the payment of wages for such services, or is the officer, agent or employee of the person having control of the payment of wages. It also includes the United States, the state and all political subdivisions thereof, and all agencies or instrumentalities of any of them.

(c) The term "distributee" means any person or organization who receives a distribution which is subject to withholding of income tax pursuant to this act.

(d) The term "distribution" means a distribution from a corporation for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, from a limited liability company formed under the laws of the state of Kansas, or from a partnership.

(e) *The term "nonresident" means an individual domiciled outside of this state and an entity whose commercial domicile is outside of this state. For corporations, commercial domicile is as defined in K.S.A. 79-3271 and amendments thereto.*

(f) The term "payee" means any person or organization who receives a payment other than wages, or a payment of a pension, annuity or deferred income, which is subject to withholding of income tax pursuant to this act.

(g) *The term "payer" means any person or organization, other than an employer, who makes a payment other than wages, or a payment of a pension, annuity or deferred income, which is subject to withholding of income tax pursuant to this act.*

~~(f)~~ (h) The term “payment other than wages” means a payment that is ~~subject to federal income tax withholding and~~ taxable under the Kansas income tax act, and that is a payment:

- (1) For any supplemental unemployment compensation, annuity, or sick pay;
- (2) pursuant to a voluntary withholding agreement;
- (3) of gambling winnings;
- (4) of taxable payments of Indian casino profits;
- (5) for any vehicle fringe benefit; *or*
- (6) ~~of periodic payments of pensions, annuities, and other deferred income;~~
- ~~(7) of nonperiodic distributions of pensions, annuities, and other deferred income; or~~
- ~~(8) of eligible rollover distributions of pensions, annuities, and other deferred income of a management or consulting fee paid in the ordinary course of a trade, business or other for profit venture.~~

~~(g) The term “payor” means any person or organization, other than an employer, who makes payments, other than wages or distributions, which are subject to withholding of income tax pursuant to this act.~~

~~(h)~~ (i) The term “pension, annuity or other deferred income” means a payment that is taxable under the Kansas income tax act, and that is a payment:

- (1) *Of periodic payments of pensions, annuities and other deferred income;*
  - (2) *of nonperiodic distributions of pensions, annuities and other deferred income; or*
  - (3) *of eligible rollover distributions of pensions, annuities and other deferred income.*
- (j) The term “wages” means wages as defined by section 3401(a) of the federal internal revenue code which are taxable under the Kansas income tax act, ~~and shall include any prize or award paid to a professional athlete at a sporting event held in this state.~~

Sec. 38. On and after July 1, 2003, K.S.A. 2002 Supp. 79-3298 is hereby amended to read as follows: 79-3298. (a) Every employer ~~and payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes and file returns in accordance with the following provisions:

(1) Whenever the total amount withheld exceeds \$100,000 in any calendar year, the employer ~~or payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes withheld in accordance with the following schedule: Each calendar month shall be divided into four remittance periods that end on the 7th, 15th, 21st and the last day of such month. If at the end of any one or all of such remittance periods the total undeposited taxes equal or exceed \$667, the taxes shall be remitted within three banking days. Saturdays, Sundays and legal holidays shall not be treated as banking days.

(2) Whenever the total amount withheld exceeds \$8,000 but does not exceed \$100,000 in any calendar year, the employer ~~or payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes withheld for wages paid during the first 15 days of any month on or before the 25th day of the month. The employer ~~or payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes withheld for wages paid during the remainder of that month on or before the 10th day of the following month.

(3) Whenever the total amount withheld exceeds \$1,200 but does not exceed \$8,000 in any calendar year, the employer ~~or payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes withheld during any month on or before the 15th day of the following month.

(4) Whenever the total amount withheld exceeds \$200 but does not exceed \$1,200 in any calendar year, the employer ~~or payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes withheld in any calendar quarter on or before the 25th day of the first month following the end of that calendar quarter.

(5) Whenever the total amount withheld does not exceed \$200 in any calendar year, the employer ~~or payor, payer, person or organization deducting and withholding tax~~ shall remit the taxes withheld during that year on or before January 25 of the following year.

(b) Each remittance required under the provisions of subsection (a) shall be accompanied by a Kansas withholding tax remittance form prescribed and furnished by the director.

(c) Every employer ~~or payor, payer, person or organization deducting and withholding tax and~~ making remittances pursuant to subsection (a) shall file a return on a form prescribed

and furnished by the director for each calendar year on or before the last day of February of the following year.

(d) The excess of any remittance over the actual taxes withheld in any withholding period shall be credited against the liability for following withholding periods until exhausted. A refund shall be allowed in accordance with K.S.A. 79-32,105, and amendments thereto, where an overpayment cannot be adjusted by an offset against the liability for a subsequent withholding period.

(e) *For purposes of determining filing requirements*, determinations of amounts withheld during a calendar year by employers ~~or payors for purposes of determining filing requirements~~, *payors, persons or organizations deducting and withholding tax* shall be made by the director upon the basis of amounts withheld by those employers ~~or payors~~, *payors, persons or organizations* during the preceding calendar year or by estimates in cases of employers ~~or payors~~, *payors, persons or organizations* having no previous withholding histories. The director is hereby authorized to modify the filing schedule for any employer ~~or payor~~, *payer, person or organization deducting and withholding tax* when it is apparent that the original determination was inaccurate.

(f) Whenever the director has cause to believe that money withheld by an employer ~~or payor~~, *payer, person or organization deducting and withholding tax* pursuant to this act may be converted, diverted, lost, or otherwise not timely paid in accordance with this section, the director shall have the power to require returns and payment from any such employer ~~or payor~~, *payer, person or organization* at any time at more frequent intervals than prescribed by this section in order to secure full payment to the state of all amounts withheld by such employer ~~or payor~~, *payer, person or organization* in accordance with this act.

Sec. 39. On and after July 1, 2003, K.S.A. 2002 Supp. 79-3299 is hereby amended to read as follows: 79-3299. (a) Every employer ~~or payor shall~~, *payer, person or organization deducting and withholding tax*, on or before January 31 of each year, *shall* prepare a statement for each employee or payee on a form prescribed by the director stating the amount of wages or payments other than wages subject to Kansas income tax paid during the preceding year, the total amount of tax withheld, if any, from such wages or payments other than wages by the employer ~~or payor~~, *payer, person or organization* pursuant to this act and such other information as may be prescribed by the director. One copy of such statement shall be filed by the employer ~~or payor~~, *payer, person or organization* with the division of taxation on or before the last day of February of each year. Two copies of such statement shall be given to the employee or payee concerned, one of which will be filed by the employee or payee with the tax return required by this chapter.

(b) In the case of an employee whose employment is terminated before the end of a calendar year, the statement required by subsection (a) may be mailed at the time provided in that subsection to the last known address of the employee, or issued at the time of the last payment to the employee, at the employer's option.

(c) Any employer ~~or payor~~, *payer, person or organization deducting and withholding tax* who ~~willfully intentionally~~ fails to furnish a statement to an employee or payee as required under the provisions of subsections (a) and (b) ~~of this section~~ shall be guilty of a *nonperson* misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$100 for each such offense.

(d) The annual statement of wages and salaries paid and amount withheld required by this section shall be in lieu of the annual information return required under K.S.A. 79-3222 *and amendments thereto*.

Sec. 40. On and after July 1, 2003, K.S.A. 2002 Supp. 79-32,100 is hereby amended to read as follows: 79-32,100. (a) The tax deducted and withheld under this act shall not be allowed as a deduction ~~either~~ to the employer ~~or payor~~, *payer, person or organization deducting and withholding tax* or to the employee or payee in computing taxable income under the "Kansas income tax act."

(b) The full amount of wages and salaries or payments other than wages from which an amount was withheld in accordance with this act shall be included in the gross income of the employee or payee unless such wages and salaries or payments other than wages or a portion thereof are otherwise excludable under the provisions of the "Kansas income tax act."

(c) The amount deducted and withheld under this act during any calendar year from the wages or payments other than wages of an individual taxpayer shall be allowed as a credit against the income tax otherwise imposed on such taxpayer by the "Kansas income tax act," whether or not such amount was remitted to the division of taxation by the employer ~~or payor, payer, person or organization deducting and withholding tax~~ in accordance with the terms of this act.

(d) If the amount withheld under this act during any calendar year exceeds the individual income tax liability of the employee-payee-taxpayer any excess shall be applied to any other income tax owed the state of Kansas by such individual ~~including fines, penalties and interest, if any,~~ and the balance of such excess, if any, refunded to the taxpayer as provided in subsection (c) of K.S.A. 79-32,105, and amendments thereto.

Sec. 41. On and after July 1, 2003, K.S.A. 2002 Supp. 79-32,100a is hereby amended to read as follows: 79-32,100a. (a) Every ~~payor payer~~ who is required under federal law to withhold upon payments other than wages ~~pursuant to the federal internal revenue code as defined by K.S.A. 79-3295 and amendments thereto,~~ shall ~~withhold and deduct and withhold~~ an amount to be determined in accordance with K.S.A. 79-32,100d, and amendments thereto, ~~whenever the payee is a person whose primary residence is in Kansas.~~

(b) A determination by the internal revenue service that relieves a ~~payor payer~~ from withholding responsibility with respect to payments other than wages to a payee shall also apply for Kansas income tax withholding purposes. Whenever a ~~payor payer~~ is required to reinstate withholding for federal income tax with regard to any payee, such obligation shall be equally applicable for Kansas withholding purposes.

(c) ~~Every payor who makes a distribution as defined by subsection (d) of K.S.A. 79-3295, and amendments thereto, shall withhold and deduct an amount to be determined in accordance with K.S.A. 79-32,100d, and amendments thereto, from amounts distributed or distributable to each nonresident shareholder or partner. Every payer who is required under federal law to withhold upon payments of a pension, annuity or other deferred income, as defined by K.S.A. 79-3295 and amendments thereto, shall deduct and withhold an amount to be determined in accordance with K.S.A. 79-32,100d and amendments thereto, whenever the payee is a resident of the state of Kansas.~~

(d) ~~Every payer who makes a payment of a management fee or a consulting fee to a nonresident shall deduct and withhold an amount to be determined in accordance with K.S.A. 2002 Supp. 79-32,100d and amendments thereto.~~

New Sec. 42. (a) Corporations for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect are required to deduct and withhold tax at a rate equal to the maximum rate imposed on individuals pursuant to subsection (a) of K.S.A. 79-32,110 and amendments thereto, from a nonresident shareholder's share of Kansas taxable income of the corporation, whether distributed or undistributed, and pay the withheld amount to the department in the manner prescribed by the department. For a taxable year beginning after 2002, the corporation shall make a return and pay over the withheld funds on or before the due date of the S corporation's income tax return, including extensions. Taxes withheld in the name of the nonresident shareholder must be used as credit against taxes due at the time the nonresident files a return of income or other applicable information return for the taxable year.

(b) An S corporation required to withhold taxes on distributed or undistributed income shall file a return with each payment of tax to the department, on forms prescribed by the secretary, disclosing such information as required by the secretary pursuant to subsection (i). The S corporation shall furnish to each nonresident shareholder a written statement as required by K.S.A. 79-3299 and amendments thereto as proof of the amount of the nonresident shareholder's share of distributed or undistributed income and of the amount that has been withheld.

(c) Partnerships are required to withhold tax at a rate equal to the maximum rate imposed on individuals pursuant to subsection (a) of K.S.A. 79-32,110 and amendments thereto, from a nonresident partner's share of Kansas taxable income of the partnership, whether distributed or undistributed, and pay the withheld amount to the department in the manner prescribed by the department. For a taxable year beginning after 2002, the partnership shall make a return and pay over the withheld funds on or before the due date



of the partnership's income tax return, including extensions. Taxes withheld in the name of the nonresident partner must be used as credit against taxes due at the time the nonresident files a return of tax or other applicable information return for the taxable year.

(d) A partnership required to withhold taxes on distributed or undistributed income shall file a return with each payment of tax to the department, on forms prescribed by the secretary, disclosing such information as required by the secretary pursuant to subsection (i). The partnership shall furnish to each nonresident shareholder a written statement as required by K.S.A. 79-3299 and amendments thereto, as proof of the amount of the nonresident shareholder's share of distributed or undistributed income that has been withheld.

(e) Limited liability companies are required to withhold tax at a rate equal to the maximum rate imposed on individuals pursuant to subsection (a) of K.S.A. 79-32,110 and amendments thereto, from a nonresident member's share of Kansas taxable income of the limited liability company, whether distributed or undistributed, and pay the withheld amount to the department in the manner prescribed by the department. For a taxable year beginning after 2002, the limited liability company shall make a return and pay over the withheld funds on or before the due date of the limited liabilities income tax return, including extensions. Taxes withheld in the name of the nonresident member must be used as credit against taxes due at the time the nonresident files a return of tax or other applicable information return for the taxable year.

(f) A limited liability company required to withhold taxes on distributed or undistributed income shall file a return with each payment of tax to the department, on forms prescribed by the secretary, disclosing such information as required by the secretary pursuant to subsection (i). The limited liability company shall furnish to each nonresident member a written statement as required by K.S.A. 79-3299 and amendments thereto, as proof of the amount of the nonresident member's share of distributed or undistributed income that has been withheld.

(g) If a nonresident shareholder, partner or member provides the S corporation, partnership or limited liability company with a statement that the shareholder or partner is an organization exempt from income taxes under section 501(a) of the federal internal revenue code, then the S corporation, partnership or limited liability company is not required to withhold with regard to that shareholder, partner or member. The statement must contain the shareholder's, partner's or member's name, federal identification number, internal revenue code section exemption number, and a copy of the internal revenue service exemption letter.

(h) (1) For purposes of computing the penalty under K.S.A. 79-32,107 and amendments thereto, the amount withheld is deemed a payment of estimated tax, and an equal part of the amount is deemed paid on each estimated tax due date for the previous taxable year.

(2) If a nonresident shareholder, partner or member files an affidavit with the department in a form acceptable to the department by which such nonresident shareholder, partner or member agrees to be subject to the personal jurisdiction of the department in courts of this state for the purpose of determining and collecting any Kansas taxes, including estimated taxes, together with any related interest and penalties, then the S corporation, partnership or limited liability company is not required to withhold with regard to that shareholder, partner or member. The department may revoke an exemption granted by this subsection at any time it determines that the nonresident shareholder, partner or member is not abiding by its terms.

(i) The department is authorized to require such returns and other information as it considers appropriate to administer the provisions of this section, and to issue rulings and promulgate regulations as necessary or appropriate to implement this section.

(j) The director of taxation may allow a nonresident individual shareholder, partner or member to not file a Kansas income tax return if the nonresident individual shareholder's, partner's or member's only source of Kansas income was such nonresident shareholder's, partner's or member's share of the S corporation's, partnership's or limited liability company's income which was derived from or attributable to sources within this state, and the S corporation, partnership or limited liability company has remitted the amount required by subsections (a), (c) or (e) on behalf of such nonresident shareholder, partner or member.

The amount remitted shall be retained in satisfaction of the Kansas income tax liability of the nonresident individual shareholder, partner or member.

(k) The provisions of this section shall be part of and supplemental to the Kansas withholding and declaration of estimated tax act.

(l) The provisions of this section shall be effective on and after July 1, 2003.

Sec. 43. On and after July 1, 2003, K.S.A. 2002 Supp. 79-32,100b is hereby amended to read as follows: 79-32,100b. (a) Every employer ~~or payor~~, payer, person or organization required to deduct and withhold tax from wages of an employee ~~or~~, payments other than wages of a payee or from a distribution, under this act shall be liable for the payment of such tax whether or not it is collected from the employee ~~or~~, payee or distributee by the employer ~~or payor~~, payer, person or organization. For purposes of assessment and collection, any amount required to be withheld and paid over to the department of revenue, and any additions to tax, penalties and interest with respect thereto, shall be considered the tax of the employer.

(b) Any amount of tax withheld shall constitute a special fund in trust for the department of revenue.

(c) No employee ~~or~~, payee or distributee shall have any right of action against their employer ~~or payor~~, payer, person or organization deducting and withholding tax in respect to any moneys deducted and withheld from wages ~~or~~, payments other than wages or distributions and paid over to the department of revenue in compliance or in intended compliance with this act.

Sec. 44. On and after July 1, 2003, K.S.A. 2002 Supp. 79-32,100c is hereby amended to read as follows: 79-32,100c. (a) If an employer ~~or payor~~, payer, person or organization deducting and withholding tax fails to deduct and withhold the tax as required under this act, and thereafter, the income tax against which the tax may be credited is paid, the tax required to be deducted and withheld shall not be collected from the employer ~~or payor~~, payer, person or organization. The payment of such tax does not, however, operate to relieve the employer, payer, person or organization from liability for penalties, interest or additions to the tax applicable with respect to such failure to deduct and withhold. The employer ~~or payor will~~, payer, person or organization shall not be relieved under this provision from liability for payment of the tax required to be withheld unless it can be shown that the income tax against which the tax required to be withheld under this act may be credited has been paid.

(b) Every agent or other person having control, receipt, custody or disposal of, or paying the wages of an employee or group of employees employed by one or more employers, is for the purpose of this act designated to be an employer. In the case of the corporation, the officers and board of directors are likewise considered employers. Employers of classes named in this section shall be subject to all the provisions of law including penalties as is their principal. Any employer who willfully fails to collect the tax imposed by the Kansas withholding tax act or truthfully account for any pay over such tax, or willfully attempts in any manner to evade or defeat any tax or the payment thereof, shall be subject to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over in addition to other penalties provided by law.

Sec. 45. K.S.A. 2002 Supp. 79-15,101 is hereby amended to read as follows: 79-15,101. As used in this act unless the context otherwise requires:

(a) Any term used in this act shall have the same meaning as when used in a comparable context in the internal revenue code. Any reference in this act to "federal law" or the "internal revenue code" shall mean the provisions of the United States internal revenue code of 1986, as such code exists on December 31, 1997. Any reference in this act to a specific provision of the internal revenue code shall be to such provision as it exists on December 31, 1997. However, for estates of decedents dying on or after January 1, 2007, any determination made under K.S.A. 79-15,102 and amendments thereto regarding whether the estate is required by federal law to file a return for federal estate taxes shall be made by referring to the provisions of the United States internal revenue code of 1986, as such code exists on December 31, 2001.

(b) "Decedent" includes the testator, intestate, grantor, bargainer, vender or donor.

(b) (c) "Deemed executor" includes any person in actual or constructive possession of any property of the decedent.

(c) (d) "Director" means the director of taxation.

(c) (e) "Distributee" means a beneficiary, legatee, devisee, heir, next of kin, grantee, donee, vendee, joint tenant or successor.

(c) (f) "Domicile" refers to that place where a person resides, has an intention to remain and to which they intend to return following any absence.

(c) (g) "Estate" and "property" shall mean the real, personal and mixed property or interest therein of the testator, intestate, grantor, bargainor, vendor or donor which shall pass or be transferred to legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors and shall include all personal property within or without the state.

(c) (h) "Executor" and "administrator" mean the duly appointed, qualified and acting executor or administrator of the decedent in this state.

(c) (i) "Nonresident decedent" means a decedent who was not a resident decedent at the time of death.

(c) (j) "Personal representative" means the executor, administrator or deemed executor of the decedent.

(c) (k) "Resident decedent" means a decedent who was domiciled in this state at the time of death. *A person who spent in the aggregate more than six months of the calendar year immediately preceding such person's death within this state shall be presumed to have been a resident for purposes of this act, in the absence of proof to the contrary.*

(c) (l) "Secretary" means the secretary of revenue, or the secretary's designee.

(c) (m) "Tax" includes tax, penalty and interest, unless the context of a particular section otherwise requires.

(c) (n) *"Tax situs" relates to location of property for the purpose of imposing tax. Real estate or tangible personal property reflected in the Kansas gross estate shall be considered to have a tax situs within Kansas if, at the time of the decedent's death, the property was physically located within the state of Kansas. Oil and gas leases on lands in this state and all interests created thereby, or arising therefrom, shall be considered as tangible personal property having an actual situs in this state. Intangible property reflected in the Kansas gross estate, including moneys on deposit with financial institutions, shall be presumed to have a tax situs within Kansas if the decedent was a resident decedent at the time of death.*

(c) (o) "Transfer" shall include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment in the manner herein prescribed.

Sec. 46. K.S.A. 2002 Supp. 79-15,102 is hereby amended to read as follows: 79-15,102.

(a) A tax is hereby imposed on the estate of every resident decedent, and every nonresident decedent who died holding an interest in property with a Kansas tax situs, whose estate is required by federal law to file a return for federal estate taxes. *For estates of decedents dying on or after January 1, 2007, the determination of whether the estate is required by federal law to file a return for federal estate taxes shall be made by referring to the provisions of the United States internal revenue code of 1986, as such code exists on December 31, 2001.* The amount of such tax shall be equal to the amount of the maximum credit allowable by section 2011 of the internal revenue code against the tax imposed on the transfer of the estate of the decedent by section 2001 of the internal revenue code.

(b) ~~When the estate of a resident decedent consists of property within and without the state, or in the case of the estate of a nonresident decedent who died holding an interest in property with a Kansas tax situs, the tax imposed under subsection (a) shall be the percentage thereof that the gross estate for federal estate tax purposes less the value of all property included therein having a tax situs which is not within the jurisdiction of the state of Kansas, bears to the total gross estate for federal estate tax purposes shall consist of property with a tax situs in Kansas and property with a tax situs outside Kansas, the tax imposed by subsection (a) shall be multiplied by the percentage determined by dividing the value of all property included in the gross estate which is within the jurisdiction of the state of Kansas by the value of all property included in the gross estate.~~

Sec. 47. K.S.A. 2002 Supp. 79-15,103 is hereby amended to read as follows: 79-15,103.

(a) *Except as otherwise provided,* the personal representative of every estate subject to the

tax imposed by K.S.A. 2002 Supp. 79-15,102 and amendments thereto who is required by federal law to file a return for federal estate taxes shall *make and* file in the office of the director a return on forms prepared and furnished by the secretary together with a copy of the federal estate tax return ~~on or before the date the federal estate tax return is required to be filed. The personal representative of any decedent whose estate is not taxable under the provisions of this act, may obtain a determination of the director that no tax liability exists on such estate by filing a return on forms prepared and furnished by the secretary stating that such estate is not taxable.~~

~~(b) The taxes imposed under the provisions of this act shall be paid by the personal representative to the director at the expiration of nine months after the death of the decedent.~~

~~(c) If the taxes contemplated by this act are not paid when due, interest at the rate prescribed by subsection (b) of K.S.A. 79-2966, and amendments thereto, shall be charged and collected commencing at the time the same become payable.~~

*(b) In those estates in which no executor or administrator has been appointed, the deemed executor shall make and file such return. In the event there is more than one deemed executor, all deemed executors shall be jointly responsible for completing and filing one return reporting all of the assets of the estate except as hereinafter provided.*

*(c) If, after exercising due diligence, the personal representative making and filing such return is unable to make a complete return as to any part of the gross estate of the decedent, the personal representative shall make and file a return reporting all information as to the estate assets, including a description thereof and the name of any person holding a legal or beneficial interest in the assets, to the best of such personal representative's knowledge.*

Sec. 48. K.S.A. 2002 Supp. 79-15,109 is hereby amended to read as follows: 79-15,109.

*(a) As soon as practicable after the return is filed and the taxes paid, the director shall issue a closing letter. Such closing letter shall be issued to the personal representative upon the director being satisfied that there has been a final determination of all taxes due and that all such taxes have been paid.*

*(b) The closing letter shall be applicable only to assets reported in the return filed with the director. To the extent the gross assets of the decedent were reported, the issuance of a closing letter shall be conclusive evidence that all taxes have been determined and paid and shall release any lien which attached to the decedent's property, or the property of any personal representative or distributee, unless notice of such lien has been filed under section 61, and amendments thereto.*

New Sec. 49. Any tax liability for tax imposed pursuant to K.S.A. 2002 Supp. 79-15,127 which may have accrued prior to the effective date of this act is hereby abolished. Any such tax paid shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Each claim for a tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid. All refunds shall be paid from the inheritance or succession tax refund fund, which is hereby created, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee.

New Sec. 50. Returns made in accordance with the provisions of this act shall be filed on or before the date the federal estate tax return is required to be filed.

New Sec. 51. (a) Upon a showing of good cause the director may grant a reasonable extension of time for filing a return.

(b) A request for an extension of time to file shall be made in the manner and form prescribed by the secretary. No such extension shall be for more than six months, except in the event of litigation directly involving the estate.

(c) Notwithstanding a grant of an extension of time to file, the taxes shall be due and payable at the same time and in the same manner as if no such extension had been granted.

New Sec. 52. All returns, statements or other documents required to be filed under any provision of this act shall be filed with the office of the director of taxation, or at such other place as the secretary may by rule or regulation prescribe.

New Sec. 53. (a) Any return, statement or other document required to be made under any provision of this act shall be signed in accordance with forms or regulations prescribed by the secretary.

(b) The fact that an individual's name is signed to a return, statement or other document shall be prima facie evidence for all purposes that the return, statement or other document was actually signed by the individual.

(c) Except as otherwise provided by the secretary, any return, declaration, statement or other document required to be made under any provision of this act shall contain or be verified by a written declaration that it is made under penalties of perjury.

New Sec. 54. If any person fails to make a return required by this act or by regulations prescribed thereunder, but consents to disclose all information necessary for the preparation thereof, the director may prepare such return. After such return is signed by the person, such return may be received by the director as the return of the person.

New Sec. 55. (a) The director is authorized to provide with respect to any amount required to be shown on a return, statement or any other document, that if the amount of such item is other than a whole-dollar amount either:

(1) The fractional part of a dollar shall be disregarded; or

(2) the fractional part of a dollar shall be disregarded unless it amounts to \$.50 or more, in which case the amount, to be determined without regard to the fractional part of a dollar, shall be increased by \$1.

(b) Any person making a return, statement or other document shall be allowed, under regulations prescribed by the secretary, to make such return, statement or other document without regard to subsection (a).

(c) The provisions of subsections (a) and (b) shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a form, but shall be applicable only to such final amount.

New Sec. 56. (a) The tax imposed under the provisions of this act shall be paid by the personal representative.

(b) The personal representative, or each personal representative if there is more than one, shall be personally liable for the tax to the extent of the property in the personal representative's actual or constructive possession which has a Kansas tax situs, less any amounts the personal representative is required to pay to third parties who have a legally enforceable claim to the property that has priority under state or federal law over the tax imposed by this act.

New Sec. 57. (a) The tax imposed under the provisions of this act shall be paid at the expiration of nine months after the death of the decedent.

(b) The person required to make the return, without assessment or notice and demand from the director, shall pay such tax to the office of the director of taxation, or at such other place as the secretary may by rule or regulation prescribe.

New Sec. 58. (a) If any personal representative fails to file a return or pay the tax if one is due, at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to 1% of the unpaid balance of the tax due for each month or fraction thereof during which such failure continues, not exceeding 24% in the aggregate, plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(b) If after review of a return the director determines that the underpayment of tax was due to the failure of the personal representative to make a reasonable attempt to comply with the provisions of this act, a penalty shall be imposed in the amount of 25% of the unpaid balance of tax due.

(c) If any personal representative has failed to file a return or has filed an incorrect or insufficient return, and after notice from the director refuses or neglects within 20 days to file a proper return, the director shall determine the value of the taxable estate according to the best available information and assess the tax together with a penalty of 50% of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was originally due to the date of payment.

(d) Any personal representative who, with fraudulent intent, fails to pay any tax or to make, render or sign any return, or to supply any information, within the time required by or under the provisions of this act, shall be assessed a penalty equal to the amount of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was originally due to the date of payment. Such person shall also be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or be imprisoned in the county jail not less than 30 days nor more than one year, or both such fine and imprisonment.

(e) Any personal representative who intentionally signs a fraudulent return shall be guilty of a felony, and upon conviction shall be punished by imprisonment for a term not exceeding five years.

(f) (1) Whenever the director determines that the failure of the personal representative to comply with the provisions of subsection (a), (b) or (c) was due to reasonable causes, the director may waive or reduce any of the penalties upon making a record of the reasons therefor.

(2) No penalty shall be assessed hereunder with respect to any underpayment of estate tax liability reported on any amended return filed by any personal representative who at the time of filing pays such underpayment and where the return is not being examined at the time of filing.

(3) No penalty assessed hereunder shall be collected if the personal representative has had the tax abated on appeal, and any penalty collected upon such tax shall be refunded.

New Sec. 59. Whenever the director has reason to believe that a personal representative may be unwilling or unable to fulfill the filing requirements of K.S.A. 79-15,103, and amendments thereto, relating to the filing of a return, or of section 56, and amendments thereto, relating to the payment of the tax, or that a distributee receiving property liable for the payment of tax is about to depart from the state or to remove any property which is subject to tax, including proceeds from the sale or disposal of such property, or to conceal themselves or such property, or to transfer, commingle, disburse or otherwise manipulate such property in order to frustrate or preclude the calculation of tax due thereon or collection of tax due therefrom, or to do any other act tending to prejudice, jeopardize or render wholly or partially ineffective the determination or collection of tax unless proceedings are brought without delay, the director shall immediately make an assessment for all such taxes due, noting such finding on the assessment. Thereupon notices of lien may be filed in accordance with section 61, and amendments thereto, or, in the director's discretion, a warrant may be issued for the collection of tax as provided in section 62, and amendments thereto. Any person liable for tax, within 30 days from the date of filing of such notice of lien or warrant, may request review in the manner prescribed by K.S.A. 79-3226, and amendments thereto, on the correctness of the jeopardy assessment. If the director finds that in certain cases collection of the tax may be jeopardized by delay, the director, in the exercise of discretion, immediately may issue notice and demand for payment of tax found to be due. In such cases, collection may be stayed by the giving of such security as the director may consider adequate.

New Sec. 60. (a) The property of the estate of every decedent whose estate is required to file an estate tax return pursuant to K.S.A. 79-15,103, and amendments thereto, in whatever form of investment it may happen to be, shall be charged with a lien for all taxes, penalties and interest thereon which are or may become due on such property.

(b) Unless the estate tax imposed by this act is sooner paid in full, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction therefor, shall be divested of such lien.

(c) Except as otherwise provided, if the taxes imposed under this act are not paid when due, the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise or release of a power of appointment or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate, to the extent of the value of such property at the time of the decedent's death, shall be personally liable for such tax. The provisions of this subsection shall not apply to the

trustee of an employee's trust which meets the requirements of section 401(a) of the federal internal revenue code. Any part of such property transferred by, or transferred by a transferee of such spouse, transferee, trustee, surviving tenant, person in possession or beneficiary to a purchaser or holder of a security interest shall be divested of the lien provided for in subsection (a) and a similar lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession or beneficiary or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

New Sec. 61. (a) Whenever the director has reason to believe that any property which is subject to tax, including proceeds from the sale or disposal of such property, may be transferred, commingled, disbursed, concealed within or removed from the state, or otherwise manipulated in order to frustrate or preclude the collection of tax from such property, the director may file against such property written notice of the lien imposed by section 60, and amendments thereto.

(b) A notice of lien shall be filed with the register of deeds in any county where any property subject to tax is located, upon forms prescribed by the secretary. In the event an exact tax liability has been determined, the notice may recite the amount of such liability.

(c) Upon satisfaction of the lien, or upon its release or divestiture in accordance with section 64, and amendments thereto, the director shall issue notice of the release of such lien, on forms prescribed by the director.

New Sec. 62. (a) If the personal representative fails to timely pay the taxes imposed by this act, the director may enforce the director's lien by the issuance of a warrant under the director's hand and official seal, directed to the sheriff of any county of the state, commanding such sheriff to levy upon and sell the real and personal property of the distributee found within the sheriff's county for the payment of the amount thereof, with the added penalty, interest and the cost of executing the warrant, and to return such warrant to the director and pay to the director the money collected by virtue thereof not more than 60 days from the date of the warrant. The sheriff, within five days after the receipt of the warrant, shall file with the clerk of the district court of the sheriff's county a copy thereof, and thereupon the clerk shall enter in the appearance docket in appropriate columns, the name of the distributee named in the warrant, the amount of the tax or portion thereof and interest for which the warrant is issued and the date such copy is filed. The amount of such warrant docketed shall thereupon become a lien upon the title to, and interest in, the real property of the distributee against whom it is issued in the same manner, as a judgment duly docketed in the office of such clerk. The sheriff shall proceed in the same manner and with like effect as prescribed by law with respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for the sheriff's services to be collected in the same manner.

(b) The court in which the warrant is docketed shall have jurisdiction over all subsequent proceedings as fully as though a judgment had been rendered in the court. In the discretion of the director, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the director, and in the execution thereof such officer or employee shall have all the powers conferred by laws upon sheriffs, and the subsequent proceedings thereunder shall be the same as provided where the warrant is issued directly to the sheriff. The distributee shall have the right to redeem the real estate within a period of 18 months from the date of such sale. If a warrant is returned, unsatisfied in full, the director shall have the same remedies to enforce the claim for taxes as if the state of Kansas had recovered judgment against the distributee for the amount of the tax. No law exempting any goods and chattels, land and tenements from forced sale under execution shall apply to a levy and sale under any such warrants or upon any execution issued upon any judgment rendered in any action for estate taxes. The director shall have the right at any time after the warrant has been returned unsatisfied or satisfied only in part, to issue alias warrants until the full amount of the tax is collected.

New Sec. 63. In cases where the tax is due and payable, the director of taxation may bring an action for collection. All actions shall be prosecuted by the attorney for the director in the name of the state, and such actions may be brought in the same courts as other actions for money.

New Sec. 64. The lien imposed by section 60, and amendments thereto, shall be divested or released only in accordance with the following provisions:

- (a) The lien shall be divested upon the payment of all taxes, penalty and interest due;
- (b) the lien shall be divested after 10 years from the date of the decedent's death;
- (c) that portion of the decedent's property which is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien;
- (d) the lien shall not affect any property after it has been sold or disposed of for value by the executors or administrators in accordance with K.S.A. 59-1410 and 59-1413, and amendments thereto, or otherwise in accordance with law, but in all such cases a lien shall attach to the proceeds realized from any such sale or other disposition for all taxes and interest thereon which are or may be due on such property. Tax due or payable from the proceeds of such sale or disposal of such property shall be collected by the personal representative in accordance with the provisions of section 56, and amendments thereto, or by the director in accordance with the provisions of section 62 or 63, and amendments thereto; and
- (e) that portion of the decedent's property which must be sold, transferred or disposed of for the payment of taxes against the estate shall be divested of the lien, but only to the extent a specific release of has been granted by the director.

New Sec. 65. (a) Whenever the lien imposed by section 60, and amendments thereto, has been released in accordance with the provisions of section 64, and amendments thereto, and the personal representative makes written request for proof of such release, the director shall furnish such personal representative with notice of release. Any such notice of release shall be in such form as prescribed by the director and may include use of or reference to the closing letter issued by the director or may be included as part of that closing letter.

(b) When the notice of release applies to real property, such notice may be filed in the office of the register of deeds in any county where any such real property included in the gross estate is located or, when the estate is involved in proceedings before the district court, with the court. At the discretion of the director, such notice of release may be filed by the director or may be provided to the personal representative for filing.

New Sec. 66. The provisions of sections 50 through 66 and amendments thereto shall be part of and supplemental to the Kansas estate tax act.

New Sec. 67. (a) The executive director of the state board of tax appeals shall charge and collect a filing fee, established by rules and regulations adopted by the state board of tax appeals, for any appeal in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding for such board to recover all or part of the costs of processing such actions incurred by the state board of tax appeals. No filing fee shall be imposed on applications by taxpayers for refunds of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, or for appeals from decisions rendered pursuant to K.S.A. 79-1448, and amendments thereto, with regard to single-family residential property. Not-for-profit organizations shall not be charged a filing fee exceeding \$10 for any appeal if the valuation of the property that is the subject of the controversy does not exceed \$100,000.

(b) There is hereby created in the state treasury the BOTA filing fee fund.

(c) The executive director of the board of tax appeals shall remit to the state treasurer at least monthly all tax appeal filing fees received by the state board of tax appeals. Upon receipt of any such remittance, the state treasurer shall deposit the amount in the state treasury to the credit of the BOTA filing fee fund.

(d) All expenditures from the BOTA filing fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the state board of tax appeals or a person or persons designated by such executive director.

New Sec. 68. (a) (1) Notwithstanding the provisions of any other law to the contrary, with respect to the following taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties and interest with respect to unpaid taxes or taxes due and owing shall apply upon compliance with the provisions of this section and if such tax liability is paid in full within the amnesty period, from October 1, 2003, to



November 30, 2003; (A) Privilege tax under K.S.A. 79-1106 *et seq.* and amendments thereto; (B) taxes under the Kansas estate tax act, K.S.A. 2002 Supp. 79-15,100 *et seq.* and amendments thereto; (C) taxes under the Kansas income tax act, K.S.A. 79-3201 *et seq.* and amendments thereto; (D) taxes under the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 *et seq.* and amendments thereto; (E) taxes under the Kansas cigarette and tobacco products act, K.S.A. 79-3301 *et seq.* and amendments thereto; (F) taxes under the Kansas retailers' sales tax act, K.S.A. 79-3601 *et seq.* and amendments thereto and the Kansas compensating tax act, K.S.A. 79-3701 *et seq.* and amendments thereto; (G) local sales and use taxes under K.S.A. 12-187 *et seq.* and amendments thereto; (H) liquor enforcement tax under K.S.A. 79-4101 *et seq.* and amendments thereto; (I) liquor drink tax under K.S.A. 79-41a01 *et seq.* and amendments thereto; and (J) mineral severance tax under K.S.A. 79-4216 *et seq.* and amendments thereto.

(2) Except for the Kansas privilege tax and individual and corporate income tax, amnesty shall apply only to tax liabilities due and unpaid for tax periods ending on or before December 31, 2002. For the Kansas privilege tax and individual and corporate income tax, amnesty shall apply only to tax liabilities due and unpaid for tax periods ending on or before December 31, 2001. For the eligible taxes and tax periods, amnesty shall apply to the underreporting of such tax liabilities, the nonpayment of such taxes and the nonreporting of such tax liabilities.

(3) Amnesty shall not apply to any matter or matters for which, on or after February 6, 2003, any one of the following circumstances exist: (A) The taxpayer has received notice of the commencement of an audit; (B) an audit is in progress; (C) the taxpayer has received notice of an assessment pursuant to K.S.A. 79-2971 or 79-3643 and amendments thereto; (D) as a result of an audit, the taxpayer has received notice of a proposed or estimated assessment or notice of an assessment; (E) the time to administratively appeal an issued assessment has not yet expired; or (F) an assessment resulting from an audit, or any portion of such assessment, is pending in the administrative appeals process before the secretary or secretary's designee pursuant to K.S.A. 79-3226 or 79-3610 and amendments thereto or the board of tax appeals, or is pending in the judicial review process before any state or federal district or appellate court. Amnesty shall not apply to any matter that is the subject of an assessment, or any portion of an assessment, which has been affirmed by a reviewing state or federal district or appellate court. Amnesty shall not apply to any party to any criminal investigation or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency or fraud in relation to any tax imposed by the state of Kansas.

(b) Upon written application by the taxpayer, on forms prescribed by the secretary of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty or interest which may be applicable with respect to taxes eligible for amnesty.

(c) Amnesty for penalties and interest shall be granted only to those eligible taxpayers who, within the amnesty period of October 1, 2003, to November 30, 2003, and in accordance with rules and regulations established by the secretary of revenue, have properly filed a tax return for each taxable period for which amnesty is requested, paid the entire balance of tax due and obtained approval of such amnesty by the department of revenue.

(d) If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the secretary of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal with respect to such tax liability. No tax payment received pursuant to this section shall be eligible for refund or credit. No payment of penalties or interest made prior to October 1, 2003, shall be eligible for amnesty.

(e) For tax returns for which amnesty has been requested, nothing in this section shall be interpreted to prohibit the department from adjusting such tax return as a result of a federal, department or other state agency audit.

(f) Fraud or intentional misrepresentation of a material fact in connection with an application for amnesty shall void such application and any waiver of penalties and interest from amnesty.

(g) Discovery of fraud relating to the underlying tax liability shall void the abatement of any liability as a result of any amnesty.

(h) The department may promulgate such rules and regulations or issue administrative guidelines as are necessary to administer the provisions of this section.

(i) The provisions of this section shall be effective on and after July 1, 2003.

Sec. 69. K.S.A. 74-2433 and K.S.A. 2002 Supp. 79-15,101, 79-15,102, 79-15,103, 79-15,106, 79-15,107, 79-15,108, 79-15,109, 79-15,114, 79-15,115 and 79-15,127 are hereby repealed.”;

And by renumbering sections accordingly;

Also on page 76, in line 15, after “47.” by inserting “On and after July 1, 2003.”; also in line 15, by striking “and K.S.A.” and inserting a comma; in line 16, after “191a,” by inserting “12-192.”; also in line 16, after “12-198,” by inserting “72-6431.”; in line 17, by striking all after “12-187.”; by striking all in line 18; in line 19, by striking “12-17,139, 25-432,” and inserting “, 12-189, 79-201x, 79-3295, 79-3298, 79-3299, 79-32,100, 79-32,100a, 79-32,100b, 79-32,100c.”; also in line 19, after “79-3606” by striking the comma and inserting “and”; in line 20, by striking “and 79-3703”; in line 22, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 14, by striking all after the semicolon; by striking all in lines 15 through 18; in line 19, by striking all before “amending”; in line 19, after “K.S.A.” by inserting “12-188.”; also in line 19, after “12-191,” by inserting “12-192.”; also in line 19, after “12-198,” by inserting “72-6431, 74-2433.”; in line 20, by striking “12-188 and”; in line 21, by striking “K.S.A.”; also in line 21, by striking “and 12-194, 25-432,” and inserting “, 12-189, 79-201x, 79-15,101, 79-15,102, 79-15,103, 79-15,109 79-3295, 79-3298, 79-3299, 79-32,100, 79-32,100a, 79-32,100b, 79-32,100c.”; in line 22, after “79-3606” by striking the comma and inserting “and”; also in line 22, by striking “and 79-3703”; in line 23, by striking “and K.S.A.”; by striking all in lines 24 and 25; in line 26, by striking all before the period and inserting “, 79-15,106, 79-15,107, 79-15,108, 79-15,114, 79-15,115 and 79-15,127”;

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

DAVID CORBIN

LES DONOVAN

JANIS K. LEE

*Conferees on part of Senate*

JOHN EDMONDS

DAVID HUFF

BRUCE LARKIN

*Conferees on part of House*

On motion of Rep. Edmonds, the conference committee report on **HB 2005** was adopted. Call of the House was demanded.

On roll call, the vote was: Yeas 98; Nays 24; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Beggs, Bethell, Betts, Boyer, Burgess, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Grant, Hayzlett, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, Mason, Mays, McCreary, McKinney, McLeland, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O’Malley, Osborne, Ostmeyer, Owens, Patterson, Peterson, Phelps, Powell, Powers, Reardon, Rehorn, Ruff, Sawyer, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, J. Williams, Wilson, Yoder.

Nays: Barbieri-Lightner, Brunk, Burroughs, Carter, Goering, Goico, Gordon, Henderson, Howell, Huebert, Huy, Kauffman, Klein, P. Long, Loyd, Merrick, F. Miller, Pauls, Reitz, Siegfried, Wilk, D. Williams, Winn, Yonally.

Present but not voting: None.

Absent or not voting: O’Neal, Pottorff, Schwab.

**MESSAGE FROM THE SENATE**

The Senate concurs in House amendments to **H. Sub. for SB 263**, and requests return of the bill.

The Senate concurs in House amendments to **H. Sub. for SB 268**, and requests return of the bill.

The Senate adopts the conference committee report to agree to disagree on **S. Sub. for HB 2399** and has appointed Senators Morris, Adkins and Feleciano as second conferees on the part of the Senate.

**INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Aurand, 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 **S. Sub. for HB 2399**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2399**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

STEPHEN R. MORRIS  
DAVID ADKINS  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

MELVIN J. NEUFELD  
CLARK SHULTZ  
ROCKY NICHOLS  
*Conferees on part of House*

On motion of Rep. Neufeld, the conference committee report on **S. Sub. for HB 2399** was adopted.

Speaker Mays thereupon appointed Reps. Neufeld, Shultz and Nichols as second conferees on the part of the House.

**CHANGE OF CONFEREES**

Speaker Mays announced the appointment of Rep. Patterson as a member of the conference committee on **HB 2418** to replace Rep. O'Neal. Also, the appointment of Rep. Goering to replace Rep. Patterson.

On motion of Rep. Aurand, the House recessed until 4:30 p.m.

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**LATE AFTERNOON SESSION**

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

On motion of Rep. Aurand, the House recessed until 7:00 p.m.

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**EARLY EVENING SESSION**

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

**MESSAGE FROM THE SENATE**

The Senate concurs in House amendments to **SB 285**, and requests return of the bill.

The Senate not adopts the conference committee report on **S. Sub. for HB 2399**, requests a new conference committee be appointed and has appointed Senators Morris, Adkins and Feleciano as third conferees on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **S. Sub. for HB 2399**.

Speaker pro tem Ballou thereupon appointed Reps. Neufeld, Shultz and Nichols 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 **SB 261**, submits the following report:

The House recedes from all of its amendments to the bill made in Committee of the Whole;

And the Senate accedes to all of the House Committee amendments to the bill;

And your committee on conference further agrees to amend the bill, as printed with amendments by House Committee, as follows:

On page 30, after line 31, by inserting the following:

“Sec. 38. K.S.A. 46-233 is hereby amended to read as follows: 46-233. (a) (1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to, has been substantially involved in the preparation of or is a participant in the making of such contract and is employed by such person or business or such officer or employee or any member of such officer's or employee's immediate family has a substantial interest in such person or business.

(2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner. This prohibition on accepting employment shall not apply in any case in which: (A) A state officer or employee who participated in making a contract while employed by an institution that is subsequently closed or abolished or otherwise ceases operations or that has budget reductions imposed that are associated with such closure and who is laid off from employment with such institution for the reason of such closure, abolition or cessation of operations or such imposition of budget reductions; (B) a state officer or employee who participated in making a contract while employed by an institution that is scheduled to be closed or abolished or to cease operations, who is scheduled to be laid off from employment with such institution for the reason of the scheduled closure, abolition or cessation of operations, and who voluntarily terminates such employment after receiving such state officer or employee's notice of the scheduled layoff; (C) a state officer or employee who participated in making a contract while employed by the department of corrections at the Topeka correctional facility and who is laid off from such employment due to the transfer of the reception and diagnostic center from the Topeka correctional facility to the El Dorado correctional facility; (D) a state officer or employee who participated in making a contract while employed by the department of corrections at the Topeka correctional facility and who voluntarily terminates from such employment after receiving such state officer or employee's notice of scheduled layoff due to the transfer of the reception and diagnostic center from the Topeka correctional facility to the El Dorado correctional facility; (E) a state officer or employee who participated in making a contract while employed by the department of social and rehabilitation services within the division of services for the blind or at Kansas industries for the blind at facilities located on the Topeka state hospital property, as defined by K.S.A. 2000 Supp. 75-37,123 and amendments

~~thereto, and who is laid off from such employment due to the closure, abolition or other cessation of operations of the Kansas industries for the blind as a state program at such location, or (F) a state officer or employee who participated in making a contract while employed by the department of social and rehabilitation services within the division of services for the blind or at Kansas industries for the blind at facilities located on the Topeka state hospital property, as defined by K.S.A. 2000 Supp. 75-37,123 and amendments thereto, and who voluntarily terminates from such employment after receiving such state officer's or employee's notice of scheduled layoff due to the closure, abolition or other cessation of operations of the Kansas industries for the blind as a state program at such location where a state officer or employee who participated in making a contract while employed by the state of Kansas is laid off or scheduled to be laid off from any state position on or after July 1, 2002. As used in this subsection (a)(2), "laid off" and "layoff" mean, in the case of a state officer or employee in the classified service under the Kansas civil service act, being laid off under K.S.A. 75-2948, and amendments thereto, and, in the case of a state officer or employee in the unclassified service under the Kansas civil service act, being terminated from employment with the state agency by the appointing authority, except that "laid off" and "layoff" shall not include any separation from employment pursuant to a budget reduction or expenditure authority reduction and a reduction of F.T.E. positions under K.S.A. 75-6801, and amendments thereto, "institution" means Topeka state hospital or Winfield state hospital and training center.~~

(b) No individual shall, while a legislator or within one year after the expiration of a term as legislator, be interested pecuniarily, either directly or indirectly, in any contract with the state, which contract is funded in whole or in part by any appropriation or is authorized by any law passed during such term, except that the prohibition of this subsection (b) shall not apply to any contract interest in relation to which a disclosure statement is filed as provided by K.S.A. 46-239, and amendments thereto.

(c) No individual, while a legislator or within one year after the expiration of a term as a legislator, shall represent any person in a court proceeding attacking any legislative action taken or enactment made during any term such individual served as a legislator as being unconstitutional because of error in the legislative process with respect to such action or enactment unless such legislator voted no upon the enactment of the measure and declared on the record, during such term, that such legislation was unconstitutional. The prohibition of this subsection (c) shall not apply to a current or former legislator charged with a violation of such legislative action or enactment.

(d) Subsections (a) and (b) shall not apply to the following:

(1) Contracts let after competitive bidding has been advertised for by published notice; and

(2) contracts for property or services for which the price or rate is fixed by law.

(e) When used in this section:

(1) "Substantial interest" shall have the same meaning ascribed thereto by K.S.A. 46-229, and amendments thereto, and any such interest held within the preceding 12 months of the act or event of participating in the preparation of making a contract.

(2) "Substantially involved in the preparation or participate in the making of a contract" means having approved or disapproved a contract or having provided significant factual or specific information or advice or recommendations in relation to the negotiated terms of the contract."

And by renumbering sections accordingly;

Also on page 30, in line 39, before "74-8001" by inserting "46-233,";

On page 1, in the title, in line 10, after "ACT" by inserting "concerning state officers and employees"; in line 13, after the stricken material by inserting "to Kansas, Inc."; in line 15, after the semicolon, by inserting "concerning contracts involving state officers and employees"; in line 22, after "39-1411" by inserting ", 46-233";

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

MELVIN J NEUFELD

CLARK SHULTZ

ROCKY NICHOLS

*Conferees on part of House*

STEPHEN R. MORRIS  
 DAVID ADKINS  
 PAUL FELECIANO, JR.  
*Conferees on part of Senate*

On motion of Rep. Neufeld to adopt the conference committee report on **SB 261**, Rep. Jim Morrison offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker pro tem Ballou thereupon appointed Reps. Neufeld, Shultz and Nichols as second conferees on the part of the House.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Neufeld, the House concurred in Senate amendments to **S. Sub. for HB 2399**, An act concerning school districts; relating to the powers and duties thereof; relating to the financing thereof; amending K.S.A. 10-1116a, as amended by section 2 of 2003 Senate Bill No. 4, 72-6417, 72-6431 and 72-6434 and K.S.A. 2002 Supp. 79-201x and repealing the existing sections. (The House requested the Senate to return the bill, which was in conference).

Call of the House was demanded.

On roll call, the vote was: Yeas 87; Nays 34; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Ballou, Beggs, Betts, Brunk, Burgess, Burroughs, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Holland, Holmes, Horst, Humerickhouse, Huy, Jack, E. Johnson, Kirk, Klein, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Mason, Mays, McCreary, McKinney, McLeland, F. Miller, J. Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Pauls, Peterson, Phelps, Powell, Powers, Reardon, Rehorn, Ruff, Sawyer, Schwartz, B. Sharp, Showalter, Shriver, Shultz, Sloan, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, J. Williams, Wilson, Winn.

Nays: Barbieri-Lightner, Bethell, Boyer, Campbell, Carter, Dreher, Edmonds, Hill, Howell, Huebert, Huff, Huntington, Hutchins, D. Johnson, Kassebaum, Kauffman, Krehbiel, Loyd, Merrick, Judy Morrison, Neighbor, Newton, O'Malley, Owens, Patterson, Reitz, S. Sharp, Siegfried, Storm, Tafanelli, Vickrey, Wilk, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: O'Neal, Pottorff, Schwab, D. Williams.

#### REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

**Request No. 144**, by Representative McKinney, congratulating Bob Dohm, Medicine Lodge High School Basketball coach, in recognition of his team being the Class 3A Sub-State Champs and placing 2nd in the state;

**Request No. 145**, by Representative Loyd, honoring Jon Tilton, D.D.S. and Jeffrey Stasch, D.D.S. for their services to others in organizing the free dental clinic, Kansas Mission of Mercy;

**Request No. 146**, by Representative Kuether, congratulating the Washburn Ichabods Mens' Basketball Team for finishing the season 26-6 and 15-3 in the MIAA;

**Request No. 147**, by Representative Loyd honoring Duane Heeke for being named Special Neighbor by the Garden City Telegram;

**Request No. 148**, by Representative Loyd, congratulating Alan Riedel for receiving the Garden City Area Chamber of Commerce Award;

**Request No. 149**, by Representative Loyd, honoring the Kansas Dental Association, Kansas Dental Hygenists' Association, United Methodist Health Ministry Fund, Kansas Dental Assistants Association, Patterson Dental Supply and Fortis Benefits for their sponsorship of the free dental clinic, Kansas Mission of Mercy 2003;

**Request No. 150**, by Representative P. Long, in memory of Miss Jenna Bogue;

**Request No. 151**, by Representative Pottorff, honoring Diane Miles, Principal and Educator at Seltzer Elementary USD 259, for her dedication to students;

**Request No. 152**, by Representative Phelps, congratulating the Kiwanis Club of Hays on the club's 50th anniversary;

**Request No. 153**, by Representative Kuether, congratulating the Washburn Lady Blues Basketball Team on winning the MIAA title and advancing to the NCAA National Tournament;

**Request No. 154**, by Representative Patterson, congratulating Jordan Imber and Kaitlyn Arnold for providing Beanie Babies to the Neonatal Intensive Care Units across the country;

**Request No. 155**, by Representative Patterson, congratulating Terry Flynn on receiving an Excellence in Coaching Ward from the Women's Intersport Network for Kansas City;

**Request No. 156**, by Representative Patterson, congratulating Ben Stafford for receiving a scholarship from the Greater Kansas City Football Coaches Association;

**Request No. 157**, by Representative Patterson, congratulating Kathryn Weaver on winning the national "Growing Up" writing contest;

**Request No. 158**, by Representative Patterson, congratulating students for attending the Kansas State Festival at the Kansas Music Educator Association Convention;

**Request No. 159**, by Representative Patterson, congratulating students for attending the Math League Contest;

**Request No. 160**, by Representative Patterson, congratulating students for receiving the 3rd place trophy at the Regional Science Olympiad;

**Request No. 161**, by Representative Patterson, congratulating students for attending the Winter 2003 Elementary Knowledge Master Open;

**Request No. 162**, by Representative Patterson, congratulating students for participating and placing in the regional journalism competition at Kansas University;

**Request No. 163**, by Representative Patterson, congratulating students for participating in the Regional Science Olympiad;

**Request No. 164**, by Representative Patterson, congratulating students for receiving honorable mention in the Kindest Kansas Citizen Essay Contest;

**Request No. 165**, by Representative Patterson, congratulating students on their performance at the Kansas Music Educator's Association Annual Convention;

**Request No. 166**, by Representative Patterson, congratulating students for being National Merit Finalists;

**Request No. 167**, by Representative Patterson, congratulating students for participating and placing at the National PTA Annual Arts Reflection Program;

**Request No. 168**, by Representative Patterson, congratulating students for participating in a Forensics Tournament;

**Request No. 169**, by Representative Patterson, congratulating Cindy Mager on receiving the Distinguished Service and Excellence in Education Award;

**Request No. 170**, by Representative Patterson, congratulating students for being named Kansas Music Educators Association All-State Students;

**Request No. 171**, by Representative Patterson, congratulating students for receiving awards in Scholastic Art;

**Request No. 172**, by Representative Patterson, congratulating David Benson for winning the Education Quotient Gold Medal School District Award;

**Request No. 173**, by Representative Patterson, congratulating students on their attendance at the KMEA State Convention;

**Request No. 174**, by Representative Patterson, congratulating students for being in the Kansas Regents' Honors' Summer Program;

**Request No. 175**, by Representative Tafanelli, honoring Mary Ann Howerton for 30 years of services to the Kansas Bureau of Investigation;

**Request No. 176**, by Representative Schwartz, congratulating Duane and Anita Ehmen on their 50th wedding anniversary;

**Request No. 177**, by Representative McKinney, congratulating Ken Leu for 40 years of service to the Fire Department;

**Request No. 178**, by Representative Dahl, congratulating Harold and Marie Jost on their 60th wedding anniversary;

**Request No. 179**, by Representative D. Johnson, congratulating Dennis Johnson for being invited to membership in Kansas Priory No. 33, Knights of the York Cross of Honour;

**Request No. 180**, by Representative Cox, honoring Chief Harry T. Kelley as one of the surviving heroes of the WWII;

**Request No. 181**, by Representative Dahl, congratulating Stanley and Jeanetta Farr and Leroy and Lou Roberts on their 50th wedding anniversary;

**Request No. 182**, by Representative Carlin, congratulating Ryan C. Doehling, Weston M. Fox, Craig S. Doan, and W. Tyler Smail on attaining the rank of Eagle Scout;

**Request No. 183**, by Representative Wilson, congratulating Barbara Tims for being awarded Master Teacher for 2003;

**Request No. 184**, by Representative Schwartz, honoring Bernice Hittle Throm on her 100th birthday;

**Request No. 185**, by Representative Dreher, congratulating Merton and Margaret White on their 50th wedding anniversary;

**Request No. 186**, by Representative Dreher congratulating Deane and Dorothy Swanson on their 50th wedding anniversary;

**Request No. 187**, by Representative Judy Morrison, congratulating Tom and Shirley Link on their 50th wedding anniversary;

**Request No. 188**, by Representative Mays, congratulating Ryan C. Doehling, Weston M. Fox, Craig S. Doan and W. Tyler Smail on attaining the rank of Eagle Scout;

**Request No. 189**, by Representative F. Miller, congratulating Chief William J. Stewart as one of the surviving heroes of WWII;

**Request No. 190**, by Representative Huff, congratulating John and Peggy Long Mast on their wedding day;

**Request No. 191**, by Representative Flaharty, congratulating Justin Wayne Williams on attaining the rank of Eagle Scout;

**Request No. 192**, by Representative Novascone, congratulating James Oberwortmann on attaining the rank of Eagle Scout;

**Request No. 193**, by Representative Huff, congratulating the Lenexa Masonic Lodge #135 for 130 years of service;

**Request No. 194**, by Representative Loganbill, congratulating members of the Wilbur Middle School for being NAL National Champions;

**Request No. 195**, by Representatives Ward, Betts, Brunk, DeCastro, Dillmore, Flaharty, Gilbert, Goering, Goico, Huy, Klein, Landwehr, Loganbill, McLeland, Novascone, Pottorff, Sawyer and Swenson, congratulating members of the Wichita Southeast and Wichita Heights boys and girls basketball and swimming and diving teams on their championship teams;

**Request No. 196**, by Representative Compton, congratulating Shelby Neill on being named President of FCCLA and Tristan Shinkle as Vice President of FCCLA;

**Request No. 197**, by Representative Henderson, congratulating seniors who are members of the First Baptist Church of Quindaro;

**Request No. 198**, by Representative Carlin, congratulating the K-State Girls' Basketball team members for their outstanding 2002-2003 season;

**Request No. 199**, by Representative DeCastro, congratulating Bob and Gerry Spicer on their 50th wedding anniversary;

**Request No. 200**, by Representative Phelps, congratulating Earl Brungardt on being named Kansas Teacher of the Year by the International Technology Education Association;

**Request No. 201**, by Representative Phelps, congratulating Dr. Fred Ruda on being awarded the William J. Wilkinson 2003 Meritorious Service Award by the International Technology Education Association;

**Request No. 202**, by Representative Phelps, congratulating Amy Schmidtberger on receiving the Girl Scout Gold Award;

**Request No. 203**, by Representative Powell, congratulating Jake Dean Steel on attaining the rank of Eagle Scout;3

**Request No. 204**, by Representative Burroughs, honoring officers of the Kansas City Police Department who have sustained injuries while serving and protecting the citizens of Kansas City, Kansas;



**Request No. 205**, by Representative Ballard, congratulating Tom and Gaye Groene and Ron and Joanne Hurst on their 50th wedding anniversaries;

**Request No. 206**, by Representative Davis, honoring employees of the Kansas Board of Indigent Defense Services in recognition of the 40th anniversary of Gideon v. Wainwright;

**Request No. 207**, by Representative Compton, congratulating Fredonia High School Mixed Ensemble on receiving a 1 rating at the state contest;

**Request No. 208**, by Representative Compton, congratulating Neodesha High School Band on receiving three 1 ratings at the state contest and the highest rating 1st division plaque;

**Request No. 209**, by Representative Mays, congratulating Janet E. Jones, Chief Clerk of the House of Representatives, for 20 years of state service;

**Request No. 210**, by Representative Compton, congratulating Dr. John K. Burke in recognition of retiring as Superintendent of USD 461;

**Request No. 211**, by Representative Compton, congratulating Jaci Friesen for receiving a I rating for Alto Sax at the State Music Festival;

**Request No. 212**, by Representative Compton, congratulating Will Pennington for receiving a I rating for Vocal Solo at the State Music Festival;

**Request No. 213**, by Representative Compton, congratulating Virginia Cummings for receiving a I rating for Clarinet Solo at the State Music Festival;

**Request No. 214**, by Representative Patterson, congratulating Pierce O'Neil and Sathvik Vasam for representing Oxford Middle School in the State of Kansas Math League Contest;

**Request No. 215**, by Representative Crow, congratulating Chris Medlen, St. Marys College Football Team, for receiving All American Honors;

**Request No. 216**, by Representative McKinney, honoring Harold and Mary Alice McKinney for their 55th wedding anniversary;

**Request No. 217**, by Representative McKinney, congratulating Lindsay Kirk for being recognized by the United States Achievement Academy as a United States National Award Winner in Science;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Aurand, the committee report was adopted.

The House stood at ease until the sound of the gavel.

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Speaker pro tem Ballou called the House to order.

#### MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **SB 261** and has appointed Senators Morris, Adkins and Feleciano as second conferees on the part of the Senate.

The Senate adopts the conference committee report to agree to disagree on **HB 2397** and has appointed Senators Morris, Adkins and Feleciano as second conferees on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, 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 2397**.

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2397**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

STEPHEN R. MORRIS  
 PAUL FELECIANO, JR.  
*Conferees on part of Senate*

MELVIN J. NEUFELD  
 CLARK SHULTZ  
 ROCKY NICHOLS  
*Conferees on part of House*

On motion of Rep. Neufeld, the conference committee report on **HB 2397** was adopted. Speaker pro tem Ballou thereupon appointed Reps. Neufeld, Shultz and Nichols as second conferees on the part of the House.

On motion of Rep. Aurand, the House recessed until 10:00 p.m.

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## NIGHT SESSION

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

### MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **HB 2397**.

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 261**, submits the following report:

The Senate accedes to all of the House amendments to the bill;

And your committee on conference further agrees to amend the bill, as printed with amendments by House Committee of the Whole, as follows:

On page 30, after line 34, by inserting the following:

“Sec. 32. K.S.A. 46-233 is hereby amended to read as follows: 46-233. (a) (1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer’s or employee’s immediate family has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to, has been substantially involved in the preparation of or is a participant in the making of such contract and is employed by such person or business or such officer or employee or any member of such officer’s or employee’s immediate family has a substantial interest in such person or business.

(2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner. This prohibition on accepting employment shall not apply in any case in which: (A) A state officer or employee who participated in making a contract while employed by an institution that is subsequently closed or abolished or otherwise ceases operations or that has budget reductions imposed that are associated with such closure and who is laid off from employment with such institution for the reason of such closure, abolition or cessation of operations or such imposition of budget reductions; (B) a state officer or employee who participated in making a contract while employed by an institution that is scheduled to be closed or abolished or to cease operations, who is scheduled to be laid off from employment with such institution for the reason of the scheduled closure, abolition or cessation of operations, and who voluntarily terminates such employment after receiving such state officer or employee’s notice of the scheduled layoff; (C) a state officer or employee who participated in making a contract while employed by the department of corrections at the Topeka correctional facility and who is laid off from such employment due to the transfer of the reception and diagnostic center from the Topeka

correctional facility to the El Dorado correctional facility; (D) a state officer or employee who participated in making a contract while employed by the department of corrections at the Topeka correctional facility and who voluntarily terminates from such employment after receiving such state officer or employee's notice of scheduled layoff due to the transfer of the reception and diagnostic center from the Topeka correctional facility to the El Dorado correctional facility; (E) a state officer or employee who participated in making a contract while employed by the department of social and rehabilitation services within the division of services for the blind or at Kansas industries for the blind at facilities located on the Topeka state hospital property, as defined by K.S.A. 2000 Supp. 75-37,123 and amendments thereto, and who is laid off from such employment due to the closure, abolition or other cessation of operations of the Kansas industries for the blind as a state program at such location; or (F) a state officer or employee who participated in making a contract while employed by the department of social and rehabilitation services within the division of services for the blind or at Kansas industries for the blind at facilities located on the Topeka state hospital property, as defined by K.S.A. 2000 Supp. 75-37,123 and amendments thereto; and who voluntarily terminates from such employment after receiving such state officer's or employee's notice of scheduled layoff due to the closure, abolition or other cessation of operations of the Kansas industries for the blind as a state program at such location *where a state officer or employee who participated in making a contract while employed by the state of Kansas is laid off or scheduled to be laid off from any state position on or after July 1, 2002*. As used in this subsection (a)(2), "laid off" and "layoff" mean, ~~in the case of a state officer or employee in the classified service under the Kansas civil service act, being laid off under K.S.A. 75-2948, and amendments thereto; and, in the case of a state officer or employee in the unclassified service under the Kansas civil service act, being terminated from employment with the state agency by the appointing authority, except that "laid off" and "layoff" shall not include any separation from employment pursuant to a budget reduction or expenditure authority reduction and a reduction of F.T.E. positions under K.S.A. 75-6801, and amendments thereto;~~ "institution" means ~~Topeka state hospital or Winfield state hospital and training center.~~

(b) No individual shall, while a legislator or within one year after the expiration of a term as legislator, be interested pecuniarily, either directly or indirectly, in any contract with the state, which contract is funded in whole or in part by any appropriation or is authorized by any law passed during such term, except that the prohibition of this subsection (b) shall not apply to any contract interest in relation to which a disclosure statement is filed as provided by K.S.A. 46-239, and amendments thereto.

(c) No individual, while a legislator or within one year after the expiration of a term as a legislator, shall represent any person in a court proceeding attacking any legislative action taken or enactment made during any term such individual served as a legislator as being unconstitutional because of error in the legislative process with respect to such action or enactment unless such legislator voted no upon the enactment of the measure and declared on the record, during such term, that such legislation was unconstitutional. The prohibition of this subsection (c) shall not apply to a current or former legislator charged with a violation of such legislative action or enactment.

(d) Subsections (a) and (b) shall not apply to the following:

(1) Contracts let after competitive bidding has been advertised for by published notice; and

(2) contracts for property or services for which the price or rate is fixed by law.

(e) When used in this section:

(1) "Substantial interest" shall have the same meaning ascribed thereto by K.S.A. 46-229, and amendments thereto, and any such interest held within the preceding 12 months of the act or event of participating in the preparation of making a contract.

(2) "Substantially involved in the preparation or participate in the making of a contract" means having approved or disapproved a contract or having provided significant factual or specific information or advice or recommendations in relation to the negotiated terms of the contract.;

And by renumbering sections accordingly;

Also on page 30, in line 42, before "and" by inserting "and 46-233";

On page 1, in the title, in line 12, after "ACT" by inserting "concerning state officers and employees;"; in line 15, by striking "and" and inserting "transferring certain"; in line 17, after the semicolon, by inserting "concerning contracts involving state officers and employees;"; in line 24, by striking "and" and inserting a comma; in line 25, preceding "and" the first place it appears in such line by inserting "and 46-233";

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

MELVIN J. NEUFELD  
CLARK SCHULTZ  
ROCKY NICHOLS  
*Conferees on part of House*

STEPHEN R. MORRIS  
DAVID ADKINS  
PAUL FELECiano, JR.  
*Conferees on part of Senate*

On motion of Rep. Nichols, the conference committee report on **SB 261** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, O'Neal, Osborne, Ostmeier, Owens, Patterson, Pauls, Peterson, Phelps, Powell, Powers, Reardon, Rehom, Reitz, Ruff, Sawyer, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Pottorff, Schwab.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2397**, submits the following report:

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

On page 1, by striking all of lines 16 through 43;

By striking all on pages 2 and 3 and inserting the following:

"Section 1. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 12-1678a is hereby amended to read as follows:

12-1678a. (a) For the purposes of this section, taxes shall include ad valorem property taxes, local gross earnings taxes, special assessments and all other taxes and fees collected with or at the same time as ad valorem property taxes.

(b) The board of county commissioners of any county may invest the undistributed taxes of any taxing subdivision in the possession of the county treasurer pursuant to the provisions of this section. The moneys shall be invested pursuant to K.S.A. 12-1675 and 12-1676, and amendments thereto.

(c) The county treasurer shall distribute the taxes collected for each taxing subdivision within or partially within the county as follows:

(1) On or before January 20, ~~July 20~~ June 5 and October 31, the estimated amount collected for and owed to the taxing subdivision, but not less than the amount actually collected as of not more than 20 days prior to the distribution date, and on or before the

last business day before March 20, ~~May 20~~ and September 20, not less than 95% of the estimated amount collected for and owed to each taxing subdivision but not less than the amount actually collected as of not more than 20 days prior to the distribution date. Except as provided in subsection (d), no payments of any interest earned on the investment of the tax collections shall be paid to the taxing subdivisions.

(2) In addition to the distributions required by the foregoing provisions of this section, the county treasurer shall make a distribution on February 5, 1990, of the estimated amount collected for and owed to each taxing subdivision, but not less than the amount actually collected as of January 17, 1990.

(3) To those taxing subdivisions which request special payment in advance of the dates provided by subsection (c)(1), in order to meet the expenditure needs of the taxing subdivisions as certified by the chief financial officer or governing body thereof, as follows: The amount requested, but not exceeding the amount actually collected for and owed to the taxing subdivision. When requesting an advance payment, the chief financial officer or the governing body of the taxing subdivision shall certify that the taxing subdivision has neither sufficient cash on hand nor any investment which can be converted to cash to meet the expenditure needs of the taxing subdivision. Except as provided by this subsection, the county treasurer shall distribute the payment requested. No payment shall be made under this subsection between December 1 of any year and January 1 of the next succeeding year, or between ~~June 1 and July 1~~ *May 1 and June 1* of any year.

(d) The board of county commissioners and the governing body of any taxing subdivision within or partially within the county may enter into agreements providing for the distribution of taxes and any interest earnings thereon in a manner alternative to the methods provided by this section, and any such agreements now in existence shall not be deemed to be invalidated by this enactment.

(e) All moneys received by the county as interest upon the investment of undistributed taxes, and not paid to taxing subdivisions as provided or authorized shall be retained by the county treasurer and shall be paid into the general fund of the county.

Sec. 2. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the 2001-02 school year and in the 2002-03 school year.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June ~~7~~ 6 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 3. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 2002 Supp. 79-6a04 is hereby amended to read

as follows: 79-6a04. The director of property valuation each year, shall make a levy for purposes of taxation, against the value assessed and determined to exist in accordance with the manner and method set forth in article 6a of chapter 79 of Kansas Statutes Annotated, and amendments thereto, at a rate which shall equal the average rate of levy for all purposes in the several taxing districts of the state for the preceding year.

For the purposes of such valuation, assessment and taxation, the taxable situs of the over-the-road vehicles and other rolling equipment determined to be taxable under this act is hereby declared to be within this state whether owned, used or operated by a motor carrier who is a resident or nonresident of Kansas and irrespective of whether such motor carrier be domiciled in Kansas or otherwise.

The director of property valuation shall cause to be sent to each motor carrier on or before the first day of August a statement of the amount of the valuation or assessment, the rate of levy and the amount of the tax. The determination contained in such statement shall not require an adjudicative proceeding under the Kansas administrative procedure act. The statement shall inform the motor carrier of the right to an informal conference as provided in this section. The failure to request an informal conference shall not preclude any appeal under K.S.A. 74-2438, and amendments thereto. If a motor carrier has any objection to the statement as issued, the motor carrier must, within 15 days of the date of mailing of such notice, notify the director of property valuation in writing of such objection, setting forth the basis therefor and all facts relating thereto. Within 30 days of the date of receipt by the director of property valuation of such written objection, the director shall hold an informal conference with the motor carrier and shall issue a written finding, ruling, order, decision or other final action thereon, which finding, ruling, order, decision or other final action shall become effective for purposes of the appeal as provided by K.S.A. 74-2438, and amendments thereto, three days following the mailing of a copy thereof to the motor carrier. Informal conferences held pursuant to this section may be conducted by the director or the director's designee. The rules of evidence shall not apply to an informal conference and no record shall be made except at the request and expense of the director or the motor carrier.

The tax as finally determined shall be paid by the motor carrier to the director of property valuation. The motor carrier may, at its option, pay the full amount thereof on or before December 20 of each year, or ½ thereof on or before December 20 and the remaining ½ thereof on or before ~~June 20~~ May 10 next ensuing, but in the event a motor carrier so charged with tax hereunder fails to pay the first ½ thereof, the full amount shall become immediately due and payable. If such motor carrier's taxes are less than \$50, the amount thereof shall be paid on or before December 20 or be subject to the penalties herein provided. In case the first ½ of such taxes remains unpaid after December 20, the entire and full amount of taxes charged shall draw interest at the rate prescribed by K.S.A. 79-2004a, and amendments thereto, from December 20 to date of payment. All taxes levied hereunder of the preceding year and accrued interest thereon which shall remain due and unpaid on ~~June 21~~ May 11 shall draw interest at the rate prescribed by K.S.A. 79-2004a, and amendments thereto, from ~~June 20~~ May 10 until paid. All moneys collected under the provisions of this act, except as provided in K.S.A. 79-6a09, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 4. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 79-2004 is hereby amended to read as follows: 79-2004. (a) Except as provided by K.S.A. 79-4521, any person charged with real property taxes on the tax books in the hands of the county treasurer may pay, at such person's option, the full amount thereof on or before December 20 of each year, or ½ thereof on or before December 20 and the remaining ½ on or before ~~June 20~~ May 10 next ensuing. If the full amount of the real property taxes listed upon any tax statement is \$10 or less the entire amount of such tax shall be due and payable on or before December 20.

In case the first half of the real property taxes remains unpaid after December 20, the first half of the tax shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum and may be paid at any time prior to ~~June 20~~ May 10 following by paying ½ of the tax together with interest at such rate from

December 20 to date of payment. Subject to the provisions of subsection (d), all real property taxes of the preceding year and accrued interest thereon which remain due and unpaid on ~~June 21~~ *May 11* shall accrue interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum from ~~June 20~~ *May 10* until paid, or until the real property is sold for taxes by foreclosure as provided by law. Except as provided by subsection (c), all interest herein provided shall be credited to the county general fund, and whenever any such interest is paid the county treasurer shall enter the amount of interest so paid on the tax rolls in the proper column and account for such sum.

(b) Whenever any date prescribed in subsection (a) for the payment of real property taxes occurs on a Saturday or Sunday, such date for payment shall be extended until the next-following regular business day of the office of the county treasurer.

(c) The board of county commissioners may enter into an agreement with the governing body of any city located in the county for the distribution of part or all of the interest paid on special assessments levied by the city which remain unpaid.

(d) All real property taxes of any year past due and unpaid on the effective date of this section and interest accrued thereon pursuant to this section prior to its amendment by this act shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum from the effective date of this section until paid or until the real property is sold for taxes by foreclosure as provided by law.

Sec. 5. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 79-2004a is hereby amended to read as follows:

79-2004a. (a) Any taxpayer charged with personal property taxes on the tax books in the hands of the county treasurer may at such taxpayer's option pay the full amount thereof on or before December 20 of each year, or ½ thereof on or before December 20 and the remaining ½ thereof on or before ~~June 20~~ *May 10* next ensuing, except that: (1) All unpaid personal property taxes of the preceding year must first be paid; and (2) if the full amount of the personal property taxes listed upon any tax statement shall be \$10 or less the entire amount of such taxes shall be due and payable on or before December 20.

In the event anyone charged with personal property taxes shall fail to pay the first half thereof on or before December 20, the full amount thereof shall become immediately due and payable.

In case the first half of the taxes remains unpaid after December 20, the entire and full amount of personal property taxes charged shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum from December 20 to date of payment. Subject to the provisions of subsection (c) all personal property taxes of the preceding year and interest thereon which shall remain due and unpaid on ~~June 21~~ *May 11* shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum from ~~June 20~~ *May 10* until paid. All interest herein provided for shall be credited to the county general fund and retained by the county, and whenever any such interest is paid, the county treasurer shall enter the amount of interest so paid on the tax rolls in the proper column and account for such sum.

(b) Whenever any date prescribed in subsection (a) for the payment of personal property taxes occurs on a Saturday or Sunday, such date for payment shall be extended until the next-following regular business day of the office of the county treasurer.

(c) All personal property taxes of any year past due and unpaid on the effective date of this section and interest accrued thereon pursuant to this section prior to its amendment by this act shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum from the effective date of this section until paid.

Sec. 6. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 79-2201 is hereby amended to read as follows:

79-2201. The county treasurer shall remit all moneys allocated to the state from the proceeds of tax levies imposed by K.S.A. 76-6b01, 76-6b04 and 76-6b09 and amendments thereto, except the proceeds of such tax levies imposed upon motor vehicles, to the state treasurer as provided in this section. The county treasurer, on or before October 31, January 20, March 5 20, ~~May 20, July 20~~ *June 5* and September 5 20 of each year, shall remit to the state treasurer the estimated amount collected for and owed to the state, except that the

amount so determined and remitted shall not be less than the actual amount collected for the state as of the date which is 20 days prior to the date of remittance. Each such remittance shall be accompanied by certification which specifies the amount for each year for which the taxes were collected and are remitted. Upon receipt of such moneys, the state treasurer shall deposit the same in the state treasury and shall credit the appropriate portions of each such deposit to the Kansas educational building fund, to the state institutions building fund and to the correctional institutions building fund in accordance with the tax levies in effect under K.S.A. 76-6b01, 76-6b04 and 76-6b09 and amendments thereto for the period for which the taxes were collected.

Sec. 7. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 2002 Supp. 79-4521 is hereby amended to read as follows: 79-4521. (a) Beginning in 2001, and in each succeeding year, the director of taxation shall issue a certificate of eligibility for refund to each claimant who received a refund of property taxes under the homestead property tax refund act for the prior year. After the certificate has been completed by the claimant and the county clerk of the county in which the property is located, the claimant may present such certificate to the county treasurer in lieu of paying that portion of the first half of taxes on the claimant's homestead in the current year which equals the amount of the homestead property tax refund received by the claimant for taxes levied in the preceding year up to the amount of the first half of the property taxes due.

(b) Prior to presenting the certificate to the county treasurer the claimant shall sign the certificate, and shall also assign, in a space provided on the certificate, the refund to the county to pay the taxes on the claimant's homestead for the year in which such certificate is issued. The claimant shall then submit the certificate of eligibility to the county clerk for review. The county clerk shall review the claim, based on proof of eligibility as prescribed in rules and regulations adopted by the secretary of revenue, to determine whether the claimant will be eligible for the refund. If the county clerk is satisfied the claimant will be eligible, the county clerk shall sign the certificate and return it to the claimant.

(c) The county treasurer shall send a copy of each certificate of eligibility to the director of taxation by December 31 of each year. After receiving a claim of any claimant who has obtained a certificate of eligibility under this section, the director shall examine the same, and if the claim is valid, the director of accounts and reports shall draw a warrant in favor of the county in which claimant's homestead is located upon a voucher approved by the director of taxation in the amount of the allowable claim for refund. Sufficient information to identify the claimant shall be directed to the county treasurer with each warrant. Any taxes levied in any year on the homestead of any claimant who has obtained the certificate of eligibility herein provided for in excess of the amount paid to the county by the state and by the claimant on or before December 20 of such year shall be paid by the claimant on or before ~~June 20~~ *May 10* of the succeeding year.

Sec. 8. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 79-2017 is hereby amended to read as follows: 79-2017. In Sedgwick, Johnson, Wyandotte and Shawnee counties, all taxes on personal property that remain due and unpaid on February 16 or ~~July~~ *June* 1 shall be collected in the following manner:

The county treasurer on or before March 25 shall send a notice by mail to the person, firm, unincorporated association, company or corporation to whom such taxes were assessed, and which remain unpaid on February 16 of any year, to its post office address as shown by the current tax roll.

The county treasurer on or before ~~July~~ *June* 27 shall send a notice by mail to the person, firm, unincorporated association, company or corporation to whom such taxes were assessed, and which remain unpaid on ~~July~~ *June* 1 of any year, to its post office address as shown by the current tax roll.

Failure to receive any such tax notice shall not relieve such person, firm, unincorporated association, company or corporation defaulting in payment of personal taxes from any interest and costs attached thereto. Such notice shall state the amount of personal tax charged against the party, and notify the party that the tax may be paid by paying the amount of the



tax as assessed and interest the amount of which shall be computed in accordance with the provisions of K.S.A. 79-2004a, and amendments thereto, on the delinquent tax.

The county treasurer is hereby authorized to accept payment of delinquent taxes in full without payment of the interest due upon such delinquent taxes if the amount of the interest due is less than \$1 and is further authorized to accept as payment in full, any interest payment in an amount not less than \$1 less than the full amount of the interest due.

Should such taxes, due and unpaid on February 16 remain unpaid for a period of 25 days after the mailing of such notice, or taxes due and unpaid on ~~July~~ June 1 remain unpaid for a period of 14 days after the mailing of such notice, the county treasurer shall issue a warrant signed by the treasurer directed to the sheriff of the county, commanding the sheriff to levy the amount of such unpaid taxes and the amount of the interest thereon, together with the sheriff's fees for collecting the taxes, upon any personal property, tangible or intangible, of the person, firm, unincorporated association, company or corporation to whom such taxes were assessed.

To allow the time necessary for preparation of such warrants, the county treasurer shall not receive any payment of delinquent personal property taxes or interest thereon, due and unpaid on February 16, during a period beginning the 26th day after mailing of notices and extending through the last regular business day of April in any year or taxes or interest due and unpaid on ~~July~~ June 1, during a period beginning the 15th day after mailing of such notices and extending through the regular business day of ~~August~~ July 15 in any year. Such warrant shall be delivered to the sheriff by the county treasurer before the first regular business day in May and the 15th regular business day in ~~August~~ July in each year. Upon receipt of such tax warrant, the sheriff shall proceed to collect such taxes the same as upon execution, except that where such taxes were levied and assessed pursuant to K.S.A. 79-329 through 79-334, and amendments thereto, they shall be collected as follows:

The sheriff shall cause notice to be given by registered mail to the purchaser of the oil and gas from such lease of the amount of such delinquent taxes and the name of the person against whom they were assessed and from and after the receipt of such notice such purchaser shall not pay to the person owing the taxes any of the proceeds of the sale of any oil or gas from such lease, but shall pay them to the sheriff until the full amount of such taxes and costs are paid after which the purchaser may resume the payments for such oil or gas to such person, but this exception shall not prevent the levy of an execution and sale of the leasehold interest or the physical personal property on any such lease for the payment of delinquent taxes owed by the owner thereof.

The sheriff, as soon as the sheriff collects the tax warrant, shall make a return thereof and shall make a return of all tax warrants delivered to the sheriff on or before October 1 of the year following the year in which the tax was levied. If the warrant so returned shows that the tax has been collected, the sheriff shall pay the tax to the county treasurer. If such return shows that such tax has not been collected, then the county treasurer shall file with the clerk of the district court of the treasurer's county an abstract of the total amount of unpaid taxes and interest due plus penalties and costs. The clerk shall enter the total amount of the unpaid taxes in the appearance docket and note the entry in the general index. No fee shall be charged for either such entry. The total amount shall become a judgment in the same manner and to the same extent as any other judgment under the code of civil procedure and shall become a lien on real estate from and after the time of the filing thereof. A transcript of the judgment may be filed with the clerk of the district court in any other county and when the judgment is entered in the manner provided above, the judgment shall become a lien upon real estate located in such county in the same manner as is provided in case of other judgments. No fee shall be made for making the entry. Execution, garnishment or other proceedings in aid of execution may issue within the county or to any other county on the judgment in the same manner as on judgments under the code of civil procedure except that any real estate taken upon execution for the collection of such taxes shall be sold without appraisal. None of the exemptions provided for in the code of civil procedure shall apply to any such judgment but no such judgment secured for taxes on personal property shall be levied against a homestead.

At the time of filing the abstract of the taxes, interest, penalties and costs with the clerk of the district court, the county treasurer shall serve notice, in writing, on the county coun-

selor of such filing. It shall be the duty of the county counselor to commence such proceedings as are necessary for the collection of such judgment. If execution is not issued within five years from the date of the entry of any such judgment, or if five years shall have intervened between the date of the last execution issued on such judgment and the time of issuing another writ of execution thereon, such judgment shall become dormant, and shall cease to operate as a lien on the real estate of the delinquent taxpayer. Such dormant judgment may be revived in like manner as dormant judgments under the code of civil procedure. Any such judgment remaining uncollected after 20 years may be allowed to become dormant if the county commissioners determine, after consideration of all relevant facts, that it is not reasonable to expect that such judgment will be collected. The board of county commissioners may allow such judgments to become dormant at any time if the original amount of the judgment was less than \$50.

Sec. 9. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 2002 Supp. 79-2101 is hereby amended to read as follows: 79-2101. Except as provided by K.S.A. 79-2017, and amendments thereto, all the taxes on personal property that remain due and unpaid on January 1 or ~~July~~ June 1 shall be collected in the following manner:

The county treasurer, on or before February 20, shall send a notice by mail to the person, firm, unincorporated association, company or corporation to whom such taxes were assessed, and which remain unpaid on January 1 of any year, to its post office address as shown by the records in the office of the county treasurer. The county treasurer, on or before ~~July~~ June 10, shall send a notice by mail to the person, firm, unincorporated association, company or corporation to whom such taxes were assessed, and which remain unpaid on ~~July~~ June 1 of any year, to its post office address as shown by the records in the office of the county treasurer. Failure to receive any such notice shall not relieve such person, firm, unincorporated association, company or corporation defaulting in payment of personal taxes from any interest and costs attached thereto. Such notice shall state the amount of personal tax charged against the party, and notify the party that the tax may be paid by paying interest thereon from the date it became due and payable to date of payment computed under the provisions of K.S.A. 79-2004a, and amendments thereto.

If such taxes remain unpaid for a period of 14 days after mailing such notice, the county treasurer shall issue a warrant signed by the treasurer directed to the sheriff of the county, commanding the sheriff to levy the amount of such unpaid taxes and the interest thereon, together with the costs of executing the warrant and the sheriff's fees for collecting the same, upon any personal property, tangible or intangible, of the person, firm, unincorporated association, company or corporation to whom such taxes were assessed. Such warrant shall be delivered to the sheriff. Upon receipt of such tax warrant, the sheriff shall proceed to collect the taxes the same as upon execution, except that taxes levied and assessed pursuant to K.S.A. 79-329 through 79-334, and amendments thereto, shall be collected as follows:

The sheriff or county treasurer shall cause notice to be given by registered mail to the purchaser of the oil and gas from such lease of the amount of such delinquent taxes and the name of the person against whom they were assessed. From and after the receipt of such notice such purchaser shall not pay to the person owing the taxes or any of the proceeds of the sale of any oil or gas from such lease, but shall pay the proceeds to the sheriff until the full amount of such taxes and costs are paid after which the purchaser may resume the payments for such oil or gas to such person, but this exception shall not prevent the levy of an execution and sale of the leasehold interest or the physical personal property on any such lease for the payment of delinquent taxes owed by its owner. Tax warrants issued pursuant to K.S.A. 79-329 through 79-334, and amendments thereto shall not be required to be returned prior to 24 months after issuance.

The sheriff, as soon as collecting the tax warrant, shall make a return thereof and shall make a return of all tax warrants delivered to the sheriff on or before October 1 of the year following the year in which the tax was levied except as otherwise provided by the preceding paragraph. If the warrant so returned shows that the tax has been collected, the sheriff shall pay the tax to the county treasurer. If such return shows that such tax has not been collected, the county treasurer shall file with the clerk of the district court of the treasurer's county an abstract of the total amount of unpaid taxes and interest due plus penalties and costs of

executing the warrant. The clerk shall enter the total amount in the appearance docket and note the entry in general index. No fee shall be charged for making the entry. The total amount shall become a judgment in the same manner and to the same extent as any other judgment under the code of civil procedure and shall become a lien on real estate from and after the time of the filing thereof. A transcript of the judgment may be filed with the clerk of the district court in any other county and when it is entered in the manner provided above it shall become a lien upon real estate located in such county in the same manner as is provided in case of other judgments, except that no fee shall be charged for making the entry. Execution, garnishment or other proceedings in aid of execution may issue within the county or to any other county on the judgment in the same manner as on judgments under the code of civil procedure except that any real estate taken upon execution for the collection of such taxes shall be sold without appraisal. None of the exemptions provided for in the code of civil procedure shall apply to any such judgment but no such judgment secured for taxes on personal property shall be levied against a homestead.

At the time of filing the abstract of the taxes, interest, penalties and costs of executing the warrant with the clerk of the district court, the county treasurer shall serve notice, in writing, on the county attorney of such filing. It shall be the duty of the county attorney to commence such proceedings as are necessary for the collection of such judgment. If execution is not issued within five years from the date of the entry of any such judgment, or if five years shall have intervened between the date of the last execution issued on such judgment, and the time of issuing another writ of execution thereon, such judgment shall become dormant, and shall cease to operate as a lien on the real estate of the delinquent taxpayer. Such dormant judgment may be revived in like manner as dormant judgments under the code of civil procedure. Any such judgment remaining uncollected after 20 years may be allowed to become dormant if the county commissioners determine, after consideration of all relevant facts, that it is not reasonable to expect such judgment will be collected. The board of county commissioners may allow such judgment to become dormant at any time if the original amount of the judgment was less than \$50.

Sec. 10. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 79-5109 is hereby amended to read as follows:

79-5109. (a) All moneys received from taxes levied upon motor vehicles under the provisions of K.S.A. 79-5101 to 79-5115, inclusive, and amendments thereto shall be allocated to the tax levy unit in which the tax situs of each motor vehicle is located. The term "tax levy unit" means an area within a county the tangible property of which is subject to the same total tax levies, levied by the same taxing subdivisions of the state. Moneys allocated to such tax levy units shall be distributed among the state and all taxing subdivisions levying taxes against tangible property within such unit in the proportion prescribed by K.S.A. 79-5111 and amendments thereto for estimating the amounts thereof for budgeting.

(b) The county treasurer shall remit all moneys allocated and credited to the state from the proceeds of taxes levied upon motor vehicles to the state treasurer as provided in this subsection. The county treasurer, on or before October 31, January 20, March 20, ~~May 20,~~ ~~July 20~~ June 5 and September 20 of each year, shall distribute to the state treasurer all such taxes allocated and credited to the state from the proceeds of taxes collected through the month prior to the month of the distribution date. Upon receipt of such moneys, the state treasurer shall deposit the same in the state treasury and shall credit  $\frac{2}{3}$  of each such deposit to the Kansas educational building fund and  $\frac{1}{3}$  of each such deposit to the state institutions building fund except that for moneys received during the period from ~~July 1, 1990, to June 30, 1991~~ January 1, 2004, through December 31, 2004, inclusive,  ~~$\frac{2}{3}$  40%~~ of each such deposit shall be credited to the Kansas educational building fund,  ~~$\frac{1}{3}$  20%~~ of each such deposit shall be credited to the state institutions building fund and  ~~$\frac{1}{3}$  40%~~ of each such deposit shall be credited to the ~~correctional institutions building~~ state general fund.

New Sec. 11. (a) There is hereby levied in the year 2003, a state tax of .6 mill upon all taxable tangible property in the state. Such tax levy shall be in addition to all other state tax levies authorized by law. Such tax levy shall be for the use and benefit of the state general fund.

(b) The county treasurer of each county shall make the proceeds of the tax levy provided for in this section available to the state treasurer immediately upon collection. When avail-

able the state treasurer shall withdraw from each county the proceeds of the taxes raised by such tax levy. Upon such withdrawal the state treasurer shall deposit the same in the state treasury.

(c) All moneys received by the state treasurer under this section shall be credited to the state general fund.

(d) The provisions of this section shall not take effect and no tax shall be levied under this section unless the notice prescribed by section 15 of this act has been published in the Kansas register on or before September 30, 2003. If the notice has been published as prescribed by section 15 of this act in the Kansas register on or before September 30, 2003, then the provisions of this section shall take effect and be in force from and after October 1, 2003.

Sec. 12. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b01 is hereby amended to read as follows:

76-6b01. (a) There is hereby levied an annual permanent state tax upon all tangible property in this state which is subject to ad valorem taxation. The tax levy shall be ~~1.7~~ .6 mill in the year ~~1993~~ 2003 and 1 mill in the year ~~1994~~ 2004 and each year thereafter until changed by statute. Such tax levy shall be in addition to all other state tax levies authorized by law. Such tax levy shall be for the use and benefit of the state institutions of higher education. The proceeds of such tax levy shall be apportioned in accordance with this act.

(b) The county treasurer of each county shall make the proceeds of the tax levy provided for in this section available to the state treasurer immediately upon collection. When available the state treasurer shall withdraw from each county the proceeds of the taxes raised by such tax levy. Upon such withdrawal the state treasurer shall deposit the same in the state treasury and shall credit the same as provided in K.S.A. 76-6b02.

Sec. 13. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b04 is hereby amended to read as follows:

76-6b04. (a) There is hereby levied an annual permanent state tax upon all tangible property in this state which is subject to ad valorem taxation. The tax levy shall be ~~25~~ .3 mill in the year ~~1990~~ 2003 and .5 mill in the year ~~1991~~ 2004 and each year thereafter until changed by statute. The tax levy shall be in addition to all other state tax levies authorized by law. The tax levy shall be for the use and benefit of state institutions caring for persons who are mentally ill, retarded, visually handicapped, with a handicapping hearing loss or tubercular or state institutions caring for children who are deprived, wayward, miscreant, delinquent, children in need of care or juvenile offenders and who are in need of residential care or treatment, or institutions designed primarily to provide vocational rehabilitation for handicapped persons. As used in this section, "state institutions" shall include, but not be limited to, those institutions under the authority of the commissioner of juvenile justice. The proceeds of such tax levy shall be apportioned in accordance with this act.

(b) The county treasurer of each county shall make the proceeds of the tax levy provided for in this section available to the state treasurer immediately upon collection. When available, the state treasurer shall withdraw from each county the proceeds of the taxes raised by such tax levy. Upon such withdrawal the state treasurer shall deposit the same in the state treasury and shall credit the same as provided in K.S.A. 76-6b05 and amendments thereto.

Sec. 14. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b11 is hereby amended to read as follows:

76-6b11. (a) *Except as provided in subsection (e)*, on July 1 of each year, the director of accounts and reports shall record a debit to the state treasurer's receivables for the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ state general fund and shall record a corresponding credit to each such fund in an amount equal to 95% of the amount credited respectively to each such fund during the immediately preceding fiscal year, except that such amount shall be proportionally adjusted with respect to any such fund in any fiscal year for any change in the tax levy rate for any such fund.

(b) All taxes received by the state treasurer under K.S.A. 76-6b01, 76-6b04 and ~~76-6b09~~ section 15 and amendments thereto during the current fiscal year shall be deposited in the state treasury to the credit of the Kansas educational building fund, the state institutions

building fund and the ~~correctional institutions building~~ *state general* fund, respectively, and shall reduce the amount debited and credited to such funds under subsection (a).

(c) On June 30 of each year, the director of accounts and reports shall adjust the amounts debited and credited to the state treasurer's receivables and to the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ *state general* fund pursuant to this section, to reflect the taxes actually received by the state treasurer and deposited during the fiscal year in the state treasury to the credit of each such fund.

(d) The director of accounts and reports shall notify the state treasurer of all amounts debited and credited to the Kansas educational building fund, the state institutions building fund and the ~~correctional institutions building~~ *state general* fund pursuant to this section and all reductions and adjustments thereto made pursuant to this section. The state treasurer shall enter all such amounts debited and credited and shall make reductions and adjustments thereto on the books and records kept and maintained for such funds by the state treasurer in accordance with the notice thereof.

(e) *On October 1, 2003, the director of accounts and reports shall make such adjustments and amendments as may be required to reflect and account for the property tax imposed by section 11 as if such tax had been in effect on July 1, 2003.*

New Sec. 15. (a) On or after August 1, 2003, and before September 30, 2003, the governor shall consult with the director of the budget, the secretary of revenue, each legislative member of the state finance council and such other state and local government officers and advisors as the governor deems appropriate, and the governor shall then determine whether or not it is in the best interest of the state to implement the provisions of this act. In making such determination, the governor shall review and consider appropriate estimates of revenues to the state general fund and all other state funds, relevant economic data and projections, the information contained in the approved budget for state agencies for fiscal year 2004, and may consider such additional information and may apply analyses as the governor deems appropriate in making such determination and finding.

(b) After reviewing and considering such information and advice, if the governor determines and finds that it is in the best interest of the state to implement the provisions of this act, then the governor shall publish a notice in the Kansas register on or before September 30, 2003, that it is in the best interest of the state to implement the provisions of this act. Upon publication of such notice in the Kansas register, this act shall be effective to amend the statutes respectively amended in sections 1 through 10 and sections 12 through 14 as provided in such sections and to enact the state property tax levy for 2003 for the purposes of the state general fund as provided in section 11.

(c) As used in this section, "implement the provisions of this act" means amend the provisions of K.S.A. 12-1678a, as amended by section 1 of this act, 72-6431, as amended by section 2 of this act, 76-6b01, as amended by section 12 of this act, 76-6b04, as amended by section 13 of this act, 76-6b11, as amended by section 14 of this act, 79-2004, as amended by section 4 of this act, 79-2004a, as amended by section 5 of this act, 79-2017, as amended by section 8 of this act, 79-2201, as amended by section 6 of this act, and 79-5109, as amended by section 10 of this act, and K.S.A. 2002 Supp. 79-6a04, as amended by section 3 of this act, 79-2101, as amended by section 9 of this act, and 79-4521, as amended by section 7 of this act, and to provide for a state property tax levy for 2003 for the purposes of the state general fund as provided in section 11.

Sec. 16. On October 1, 2003, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 76-6b01, 76-6b04, and 76-6b11 are hereby repealed.

Sec. 17. On January 1, 2004, and after publication in the Kansas register of the notice prescribed by section 15 of this act, K.S.A. 12-1678a, 72-6431, 79-2004, 79-2004a, 79-2017, 79-2201 and 79-5109 and K.S.A. 2002 Supp. 79-6a04, 79-2101 and 79-4521 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.;

On page 1, in the title, by striking all in lines 10 through 13 and inserting the following:

“AN ACT concerning property taxation; relating to time for payment; adjusting certain state property taxes; amending K.S.A. 12-1678a, 72-6431, 76-6b01, 76-6b04, 76-6b11, 79-2004, 79-2004a, 79-2017, 79-2201 and 79-5109 and K.S.A. 2002 Supp. 79-6a04, 79-2101 and 79-4521 and repealing the existing sections.”

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

STEPHEN R. MORRIS  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

MELVIN J. NEUFELD  
CLARK SHULTZ  
ROCKY NICHOLS  
*Conferees on part of House*

On motion of Rep. Neufeld, the conference committee report on **HB 2397** was adopted.

On roll call, the vote was: Yeas 65; Nays 58; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Beggs, Betts, Carlin, Craft, Crow, Dahl, DeCastro, Decker, Dillmore, Flaharty, Flora, Gatewood, Gilbert, Grant, Hayzlett, Henderson, Henry, Holmes, Huff, D. Johnson, E. Johnson, Kirk, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, Mason, Mays, McKinney, McLeland, J. Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Osborne, Ostmeyer, Peterson, Phelps, Powell, Reardon, Rehorn, Ruff, Sawyer, Schwartz, B. Sharp, Showalter, Shriver, Shultz, Storm, Svaty, Thimesch, Thull, Toelkes, Ward, J. Williams, Wilson, Winn.

Nays: Barbieri-Lightner, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carter, Compton, Cox, Davis, Dreher, Edmonds, Faber, Feuerborn, Freeborn, Goering, Goico, Gordon, Hill, Holland, Horst, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, Jack, Kassebaum, Kauffman, Klein, P. Long, Loyd, McCreary, Merrick, F. Miller, Judy Morrison, Neighbor, Newton, Novascone, O'Malley, O'Neal, Owens, Patterson, Pauls, Powers, Reitz, S. Sharp, Siegfried, Sloan, Swenson, Tafanelli, Vickrey, Wilk, D. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Pottorff, Schwab.

The House stood at ease until the sound of the gavel.

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Speaker Mays called the House to order.

#### MESSAGES FROM THE SENATE

The Senate adopts conference committee report on **S. Sub. for HB 2444**.

Also, the President announced the appointment of Senators Corbin, Donovan and Lee as members of the conference committee on **SB 265** to replace Senators Allen, O'Connor and Gilstrap.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, 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 **SB 265**.

#### INTRODUCTION OF ORIGINAL MOTIONS

Pursuant to Joint Rule 3(f), Rep. Aurand moved that the House dispense with distribution of copies of the conference committee report to all members of the House on **SB 265**. The motion prevailed.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 265**, 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, by striking all following the enacting clause;

By striking all on pages 2 and 3 and inserting:

“Section 1. K.S.A. 2002 Supp. 79-3603 is hereby amended to read as follows: 79-3603.

For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1, 2002, and before July 1, ~~2004~~, ~~5.2% on and after July 1, 2004, and before July 1, 2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; 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 but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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

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

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

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

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

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

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

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

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

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

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



event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

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

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

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

For the purposes of this subsection:

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

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

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

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

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

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

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software;

(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 telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; 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. 2. K.S.A. 2002 Supp. 79-3620 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  $\frac{5}{104}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.2%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

~~—(3)~~ The state treasurer shall credit  $\frac{5}{106}$  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.

~~(4)~~ (3) The state treasurer shall credit  $\frac{1}{20}$  of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing 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, 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 project.

Sec. 3. K.S.A. 2002 Supp. 79-3703 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, 5.2% on and after July 1, 2004, and before July 1, 2005 2006, and 5% on and after July 1, 2005 2006. 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. 4. K.S.A. 2002 Supp. 79-3710 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  $\frac{5}{104}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.2%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

~~—(3)~~ The state treasurer shall credit  $\frac{5}{106}$  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  $\frac{1}{20}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing 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.

Sec. 5. K.S.A. 2002 Supp. 79-3603, 79-3620, 79-3703 and 79-3710 are hereby repealed.

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

On page 1, in the title, by striking all in lines 12 through 14 and inserting “AN ACT concerning taxation; relating to collection and remittance of sales and compensating tax; amending K.S.A. 2002 Supp. 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections.”

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

MELVIN J. NEUFELD  
CLARK SHULTZ  
ROCKY NICHOLS  
*Conferees on part of House*

DAVID R. CORBIN  
LES DONOVAN  
JANIS K. LEE  
*Conferees on part of Senate*

On motion of Rep. Neufeld, the conference committee report on **SB 265** was adopted.

On roll call, the vote was: Yeas 69; Nays 55; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beggs, Betts, Carlin, Compton, Cox, Craft, Crow, Davis, Decker, Dillmore, Dreher, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Grant, Hayzlett, Henry, Hill, Holland, Horst, Humerickhouse, E. Johnson, Kassebaum, Kirk, Klein, Kuether, Larkin, Light, Loganbill, M. Long, Loyd, Mason, Mays, McKinney, J. Miller, Minor, Jim Morrison, Judy Morrison, Neufeld, Nichols, O'Neal, Pauls, Peterson, Phelps, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, B. Sharp, Showalter, Shriver, Sloan, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, J. Williams, Wilson, Yonally.

Nays: Ballou, Barbieri-Lightner, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carter, Dahl, DeCastro, Edmonds, Faber, Goering, Goico, Gordon, Henderson, Holmes, Howell, Huebert, Huff, Huntington, Hutchins, Huy, Jack, D. Johnson, Kauffman, Krehbiel, Landwehr, P. Long, McCreary, McLeland, Merrick, F. Miller, Myers, Neighbor, Newton, Novascone, O'Malley, Osborne, Ostmeyer, Owens, Patterson, Powers, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Tafanelli, Vickrey, Wilk, D. Williams, Winn, Yoder.

Present but not voting: None.

Absent or not voting: Pottorff.

#### MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **SB 261**.

The Senate adopts conference committee report on **SB 265**.

The Senate adopts conference committee report on **HB 2287**.

**INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Aurand, 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 2287**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2287**, 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 7, in line 1, by striking "seven" and inserting "five";

On page 8, in line 13, by striking "2006" and inserting "2004, 5.2% on and after July 1, 2004, and before July 1, 2005"; in line 14, by striking "2006" and inserting "2005";

On page 26, in line 19, after "year" by inserting ", or on and after July 1, 2005, after three years, ;

On page 27, by striking all in lines 35 through 43;

By striking all on pages 28 and 29;

On page 30, by striking all in lines 1 through 33;

And by renumbering sections accordingly;

On page 31, in line 29, by striking "\$5,000" and by inserting "\$8,000";

On page 33, in line 19, by striking "\$5,000" and by inserting "\$8,000";

On page 35, in line 12, by striking "\$5,000" and by inserting "\$8,000";

On page 36, in line 28, by striking "\$5,000" and by inserting "\$8,000";

On page 38, in line 31, by striking "\$5,000" and by inserting "\$8,000";

On page 40, in line 10, by striking "\$5,000" and by inserting "\$8,000";

On page 41, in line 23, by striking "\$5,000" and by inserting "\$8,000";

On page 42, in line 34, by striking "\$5,000" and by inserting "\$8,000";

On page 43, in line 18, by striking "79-3620, 79-3703 and"; in line 19, by striking "79-3710";

On page 1, in the title, in line 21, by striking "79-3620, 79-3703"; in line 22, by striking "and 79-3710";

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

DAVID R. CORBIN

LES DONOVAN

JANIS K. LEE

*Conferees on part of Senate*

JOHN EDMONDS

DAVID HUFF

BRUCE LARKIN

*Conferees on part of House*

On motion of Rep. Edmonds to adopt the conference committee report on **HB 2287**, the motion did not prevail.

On roll call, the vote was: Yeas 36; Nays 88; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Crow, Dillmore, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Grant, Henry, Kirk, Klein, Krehbiel, Kuether, Larkin, Loganbill, Loyd, Mays, McKinney, J. Miller, Minor, Nichols, Peterson, Phelps, Rehorn, Ruff, Sawyer, B. Sharp, Showalter, Shriver, Sloan, Svaty, Thimesch, Ward, Wilson.

Nays: Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dreher, Edmonds, Faber, Feuerborn, Goering, Goico, Gordon, Hayzlett, Henderson, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Landwehr, Light, M. Long, P. Long, Mason, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neigh-

bor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Powell, Powers, Reardon, Reitz, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Storm, Swenson, Tafanelli, Thull, Toelkes, Vickrey, Wilk, D. Williams, J. Williams, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Pottorff.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SENATE Substitute for HB 2444**, 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, following line 41, by inserting new material to read as follows:

“(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, the following:

KPERS refund fund

For the fiscal year ending June 30, 2004..... \$0

(c) During the fiscal year ending June 30, 2004, notwithstanding the provisions of any other statute, the executive director of the Kansas public employees retirement system shall determine and certify to the state treasurer, amounts from specified amounts of state employers contributions which are attributable to the Kansas public employees retirement system, the Kansas police and firemen's retirement system, and the retirement system for judges, which equal \$700,000 in the aggregate and which are required to be credited to the KPERS refund fund for the purpose of making the transfers and refunds prescribed by this subsection: *Provided*, That, upon receipt of each such certification, the state treasurer shall credit the amounts certified by the executive director of the Kansas public employees retirement system from such state employer contributions to the KPERS refund fund: *Provided further*, That, on or after July 1, 2003, on the date during the fiscal year ending June 30, 2004, when sufficient moneys have been credited to the KPERS refund fund pursuant to this subsection in order to offset a like amount of moneys which have been deposited in the Kansas public employees retirement fund to the credit of the retirant dividend payment reserve pursuant to 2003 House Bill No. 2014 and which are determined to be no longer required for the purposes of making payments from the retirement dividend payment reserve on October 1, 2003, the executive director of the Kansas public employees retirement system shall certify such matters to the director of accounts and reports: *And provided further*, That, upon receipt of such certification, the director of accounts and reports shall transfer all moneys credited to the KPERS refund fund to the state general fund: *And provided further*, That the executive director of the Kansas public employees retirement system shall transmit a copy of each certification made pursuant to this subsection to the director of the legislative research department.”;

On page 2, in line 6, by striking “2003” and inserting “2004”; following line 18, by inserting new material to read as follows:

“Estate tax abatement refund fund

For the fiscal year ending June 30, 2004..... No limit”;

Also on page 2, in line 26, by striking “\$50,806” and inserting “\$350,806”;

On page 3, in line 7, by striking “\$2,150,000” and inserting “\$3,350,000”; by striking all in lines 8 through 16 and inserting the following:

“(h) (1) During the fiscal year ending June 30, 2004, notwithstanding the provisions of K.S.A. 41-507, 79-1112, 79-15,105, 79-15,113, 79-32,105, 79-3379, 79-3620, 79-3710 and 79-4227 and amendments thereto, section 42(b) of 2003 Senate Bill No. 6, or any other statute, the amount of moneys credited to the suspense fund for the purpose of paying liquor enforcement tax refunds, the privilege tax refund fund, the estate tax abatement refund fund, the income tax refund fund, the cigarette tax refund fund, the sales tax refund fund, the compensating tax refund fund, and the mineral production tax refund fund, in the aggregate, shall not exceed \$424,500,000, subject to the provisions of subsection (h)(2):

*Provided, however,* That any amount required to be credited to the income tax refund fund for an approved payment of a homestead tax refund claim shall be in addition to the aggregate limitation established by this subsection on the amounts credited during fiscal year 2004 to the suspense fund for the purpose of paying liquor enforcement tax refunds, the privilege tax refund fund, the estate tax abatement refund fund, the income tax refund fund, the cigarette tax refund fund, the sales tax refund fund, the compensating tax refund fund, and the mineral production tax refund fund.

(2) During the fiscal year ending June 30, 2004, upon request by the secretary of revenue, in consultation with the director of taxation, and approval by the governor, the amount of moneys credited during fiscal year 2004 to the suspense fund for the purpose of paying liquor enforcement tax refunds, the privilege tax refund fund, the estate tax abatement refund fund, the income tax refund fund, the cigarette tax refund fund, the sales tax refund fund, the compensating tax refund fund, and the mineral production tax refund fund may exceed the aggregate limitation established by this subsection (h) on the amounts credited during fiscal year 2004 to the suspense fund for the purpose of paying liquor enforcement tax refunds, the privilege tax refund fund, the estate tax abatement refund fund, the income tax refund fund, the cigarette tax refund fund, the sales tax refund fund, the compensating tax refund fund, and the mineral production tax refund fund, by an additional amount or amounts specified by the governor for the fund or funds specified by the governor therefor: *Provided,* That the aggregate of all such additional amounts authorized by the governor to be credited during fiscal year 2004 to such fund or funds pursuant to this subsection (h)(2) shall not exceed \$50,000,000.”;

On page 5, in line 17, by striking “\$750,000” and inserting “\$1,000,000”; in line 18, by striking “\$1,582,078” and inserting “\$582,078”; in line 19, by striking “year” and inserting “years”; also in line 19, following “ending”, by inserting “June 30, 2003, and”; in line 24, by striking all following the comma; in line 25, by striking all preceding “That”;

On page 10, by striking all in lines 35 through 38;

And by renumbering sections accordingly;

On page 12, following line 19, by inserting new material to read as follows:

“Civil registration and health statistics fee fund

For the fiscal year ending June 30, 2004..... No limit”;

Also on page 12, by striking all in line 29 through 32; in line 33, by striking “(e)” and inserting “(d)”;

(e) On July 1, 2003, the director of accounts and reports shall transfer \$180,000 from the health care stabilization fund of the health care stabilization fund board of governors to the health facilities review fund of the department of health and environment for the purpose of financing a review of records of licensed medical care facilities and an analysis of quality of health care services provided to assist in correcting substandard services and to reduce the incidence of liability resulting from the rendering of health care services and implementing the risk management provisions of K.S.A. 65-4922 *et seq.*, and amendments thereto.”;

On page 15, in line 27, by striking “\$3,780,660” and inserting “\$3,883,577”; by striking all in lines 35 through 38;

On page 16, by striking all in lines 1 through 5; preceding line 6, by inserting new material to read as follows:

“(c) During the fiscal year ending June 30, 2004, on or before the commencement of the regular session of the legislature, the governor shall prepare and submit a recommendation to the legislature for an additional amount of funding for the Kansas sentencing commission for substance abuse treatment programs to implement the provisions of 2003 Senate Bill No. 123: *Provided,* That such additional funding shall be recommended for appropriation or transfer to the Kansas sentencing commission in an aggregate amount not to exceed \$852,598.”;

On page 17, preceding line 36, by inserting new material to read as follows:

“(d) In addition to the other purposes for which expenditures may be made by the department of transportation from moneys appropriated from the agency operations account of the state highway fund for fiscal year 2004 for the department of transportation as au-

thorized by this or other appropriation act of the 2003 regular session of the legislature, expenditures shall be made by the department of transportation from moneys appropriated in the agency operations account of the state highway fund for fiscal year 2004 to work cooperatively with the Kansas congressional delegation to obtain a state-specific change in federal law to permit the use of over-length cotton double module hauling vehicles on the national highway system in Kansas.”;

On page 18, in line 2, by striking “\$1,641,340” and inserting “\$1,141,340”;

On page 19, by striking all in lines 13 through 27 and inserting new material to read as follows:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

**Adult corrections oversight**

For the fiscal year ending June 30, 2004..... \$100,000

*Provided*, That any unencumbered balance in the adult corrections oversight account in excess of \$100 as of June 30, 2003, is hereby reappropriated for fiscal year 2004: *Provided, however*, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council.”;

Also on page 19, in line 29, by striking “\$15,000” and inserting “\$85,000”; in line 38, by striking “2003” and inserting “2004”;

On page 20, in line 6, by striking “2003” and inserting “2004”; in line 14, by striking “2003” and inserting “2004”; in line 22, by striking “2003” and inserting “2004”; in line 31, by striking “2003” and inserting “2004”;

On page 24, by striking all in lines 25 through 43;

On page 25, by striking all in lines 1 through 43;

On page 26, by striking all in lines 1 through 36 and inserting new material to read as follows:

“Sec. 38. (a) (1) On July 1, 2003, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2004, by this or other appropriation act of the 2003 regular session of the legislature and that is determined by the director of the budget in accordance with the provisions of subsection (a)(2) to constitute savings attributable to the state agency’s participation in the state setoff program under K.S.A. 75-6201 through 75-6215, and amendments thereto, and is certified by the director of the budget to the director of accounts and reports for fiscal year 2004, is hereby lapsed from such account.

(2) In determining the amount that constitutes savings attributable to a state agency’s participation in the state setoff program under K.S.A. 75-6201 through 75-6215, and amendments thereto, for the fiscal year ending June 30, 2004, in each account of the state general fund of such state agency that is appropriated for fiscal year 2004, for the purposes of making the certification to the director of accounts and reports prescribed by subsection (a)(1), the director of the budget shall review the information contained in the budget estimates submitted by state agencies for fiscal year 2004, the recommendations thereon by the governor, and the bills, reports and other legislative documentation of legislative action on such budget estimates and recommendations for fiscal year 2004 for such state agencies and may consider additional information, and may apply appropriate analyses and prorations to determine the amounts to be certified under this subsection (a), subject to the maximum aggregate amount prescribed under subsection (c) therefor and any applicable federal, state and other statutory or contract restrictions: *Provided*, That, at the same time that each certification is made by the director of the budget to the director of accounts and reports under subsection (a)(1), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.

(b) (1) On July 1, 2003, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2004, by this or other appropriation act of the 2003 regular session of the legislature and that is budgeted for payments to the state motor pool for expenses related to commuting as determined and certified by the director of the budget to the director of accounts and reports for fiscal year 2004, is hereby lapsed from such account.



(2) In determining the amount budgeted for each state agency for payments to the state motor pool for expenses related to commuting for the fiscal year ending June 30, 2004, in each account of the state general fund of such state agency that is appropriated for fiscal year 2004, and in each account of each special revenue fund of such state agency that is appropriated for fiscal year 2004, for the purposes of making the certification to the director of accounts and reports prescribed by subsection (b)(1), the director of the budget shall review the information contained in the budget estimates submitted by state agencies for fiscal year 2004, the recommendations thereon by the governor, and the bills, reports and other legislative documentation of legislative action on such budget estimates and recommendations for fiscal year 2004 for such state agencies and may consider additional information, and may apply appropriate analyses and prorations to determine the amounts to be certified under subsection (b)(1), subject to the maximum aggregate amount prescribed by subsection (c) therefor and any applicable federal, state and other statutory or contract restrictions: *Provided*, That, at the same time that each certification is made by the director of the budget to the director of accounts and reports under subsection (b)(1), the director of the budget shall deliver a copy of such certification to the director of the legislative research department.

(c) The total of (A) the aggregate amount lapsed from all such accounts of the state general fund for fiscal year 2004 by subsection (a)(1), and (B) the aggregate amount lapsed from all such accounts of the state general fund for fiscal year 2004 by subsection (b)(1), shall not exceed \$500,000.”;

And by renumbering sections accordingly;

On page 27, in line 4, by striking “2003” and inserting “2004”;

On page 28, in line 10, by striking “2003” and inserting “2004”; in line 19, by striking “2003” and inserting “2004”; in line 27, by striking “2003” and inserting “2004”; in line 35, by striking “\$26,466” and inserting “\$67,716”;

On page 29, by striking all in lines 2 and 3; following line 9, by inserting new material to read as follows:

“Comprehensive grant program	
For the fiscal year ending June 30, 2004.....	\$711,000
Payment to KPERS	
For the fiscal year ending June 30, 2004.....	\$2,000,000
Southwest Kansas access project	
For the fiscal year ending June 30, 2004.....	\$200,000

*Provided*, That the state board of regents is hereby authorized to transfer moneys from this account to the appropriate accounts of the state general fund of any state educational institution under the control and supervision of the state board of regents.”;

Also on page 29, in line 10, by striking “(c)” and inserting “(b)”;

following line 22, by inserting new material to read as follows:  
“(c) In addition to the other purposes for which expenditures may be made by the state board of regents from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2004 for the state board of regents authorized by this or other appropriation act of the 2003 regular session of the legislature, notwithstanding the provisions of any other statute, expenditures shall be made by the state board of regents for fiscal year 2004 from the moneys appropriated from the state general fund or any special revenue fund for development, adoption and implementation of a policy and any necessary administrative procedures to provide a waiver of all tuition, fees and other charges for enrollment without charge of tuition or fees for each person who was a prisoner of war while serving in any military service of the United States of America, who is a resident of Kansas and who is enrolled at a state educational institution under the control and supervision of the state board of regents, so long as such person is eligible for such enrollment, but not to exceed 12 semesters of instruction or the equivalent thereof, at any such state educational institution: *Provided*, That, as used in this subsection, “military service of the United States of America” includes any active service in any armed service of the United States of America and any member of the Kansas army or air national guard in active federal service and “prisoner of war” means an individual who is a prisoner of war under Article 4 of the third Geneva Convention and any individual who is

in military service of the United States of America in an armed conflict and who is taken prisoner by opposing forces, whether or not under an official declaration of war, including the recent armed conflicts in Iraq, Afghanistan, Kuwait, Herzegovina and Bosnia.

(d) (1) The director of accounts and reports shall not make the transfer of amounts designated by the chief executive officer of the state board of regents from accounts of the state general fund or special revenue funds at universities under the control of the state board of regents to the regents clearing fund of the state board of regents which was authorized to be made by section 67(g) of 2003 Senate Bill No.6 and, on the effective date of this act, the provisions of section 67(g) of 2003 Senate Bill No.6 are hereby declared to be null and void and shall have no force and effect.

(2) (A) The director of accounts and reports (i) shall not make the transfer of \$711,000 from the regents clearing fund of the state board of regents to the comprehensive grant discontinued attendance fund of the state board of regents which was directed to be made by section 67(h) of 2003 Senate Bill No.6, and (ii) shall not make the transfer of the remaining balance in the regents clearing fund of the state board of regents which is in excess of \$41,250 to state general fund accounts or special revenue funds of state universities under the control of the state board of regents which was directed to be made by section 67(h) of 2003 Senate Bill No.6.

(B) On the effective date of this act, the provisions of section 67(h) of 2003 Senate Bill No.6 are hereby declared to be null and void and shall have no force and effect.”;

Also on page 29, in line 25, by striking “2004” and inserting “2003”;

On page 30, following line 23, by inserting new material to read as follows:

“(c) On July 1, 2003, of the \$125,325,537 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 64(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$477,253 is hereby lapsed.

(d) On July 1, 2003, of the \$5,897,047 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 64(a) of 2003 Senate Bill No. 6 from the state general fund in the geological survey account, the sum of \$31,937 is hereby lapsed.

Sec. 47.

#### UNIVERSITY OF KANSAS MEDICAL CENTER

(a) On July 1, 2003, of the \$97,312,648 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 65(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$51,856 is hereby lapsed.

(b) On July 1, 2003, the \$700,000 appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2004, by section 65(f) of 2003 Senate Bill No. 6 in the pediatric biomedical research account is hereby lapsed.

Sec. 48.

#### KANSAS STATE UNIVERSITY

(a) On July 1, 2003, of the \$100,901,836 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 59(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$508,174 is hereby lapsed.

Sec. 49.

#### KANSAS STATE UNIVERSITY VETERINARY MEDICAL CENTER

(a) On July 1, 2003, of the \$9,545,175 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 61(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$56,191 is hereby lapsed.

Sec. 50.

#### KANSAS STATE UNIVERSITY EXTENSION SYSTEMS AND AGRICULTURE RESEARCH PROGRAMS

(a) On July 1, 2003, of the \$17,502,220 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 60(a) of 2003 Senate Bill No. 6 from the state general

fund in the cooperative extension service (including official hospitality) account, the sum of \$194,780 is hereby lapsed.

(b) On July 1, 2003, of the \$28,212,396 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 60(a) of 2003 Senate Bill No. 6 from the state general fund in the agricultural experiment stations (including official hospitality) account, the sum of \$120,489 is hereby lapsed.

Sec. 51.

WICHITA STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures (including official hospitality)  
For the fiscal year ending June 30, 2004..... \$91,796”;

And by renumbering sections accordingly;

Also on page 30, following line 29, by inserting new material to read as follows:

“(b) On July 1, 2003, of the \$28,981,556 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 62(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$244,158 is hereby lapsed.

Sec. 53.

FORT HAYS STATE UNIVERSITY

(a) On July 1, 2003, of the \$30,179,531 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 58(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$209,828 is hereby lapsed.

Sec. 54.

PITTSBURG STATE UNIVERSITY

(a) On July 1, 2003, of the \$31,826,710 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 63(a) of 2003 Senate Bill No. 6 from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$249,634 is hereby lapsed.”;

And by renumbering sections accordingly;

Also on page 30, following line 40, by inserting new material to read as follows:

“(b) During the fiscal year ending June 30, 2004, of the aggregate amount of fines, penalties and forfeitures remitted each month to the state treasurer by the clerks of the district courts, the state treasurer shall credit (1) the amount equal to 1% of each such aggregate monthly remittance to the crime victims compensation fund; and (2) the amount equal to 1% of each such aggregate monthly remittance to the crime victims assistance fund: *Provided*, That all moneys credited to the crime victims compensation fund pursuant to this subsection shall be in addition to all other amounts credited to the crime victims compensation fund as prescribed by K.S.A. 74-7336 and amendments thereto or by any other statute: *Provided further*, That all moneys credited to the crime victims assistance fund pursuant to this subsection shall be in addition to all other amounts credited to the crime victims assistance fund as prescribed by K.S.A. 20-367 and 74-7336 and amendments thereto or by any other statute.

(c) During the fiscal year ending June 30, 2004, grants made pursuant to K.S.A. 74-7325 and amendments thereto from the protection from abuse fund and grants made pursuant to K.S.A. 74- 7334 and amendments thereto from the crime victims assistance fund shall be made after consideration of the recommendation of an entity that has been designated by the United States department of health and human services and by the centers for disease control as the official domestic violence or sexual assault coalition.”;

On page 31, in line 3, by striking “\$85,959” and inserting “\$70,959”; following line 5, by inserting new material to read as follows:

“For the fiscal year ending June 30, 2004 ..... \$2,901,000

## Supplemental general state aid

For the fiscal year ending June 30, 2004.....	\$367,000
Kansas foundation for agriculture project grant	
For the fiscal year ending June 30, 2004.....	\$35,000

*Provided*, That expenditures from the Kansas foundation for agriculture project grant account shall be used for agriculture in the classroom programs to supplement existing elementary and secondary curricula with agricultural information: *Provided further*, That expenditures from this account shall be made only if private funding sources are available to match such state grants on a 60% state and 40% private basis.”;

Also on page 31, following line 17, by inserting the following:

“(d) On June 30, 2003, of the \$1,789,496,000 appropriated for the above agency for the fiscal year ending June 30, 2003, by section 97(a) of chapter 204 of the 2002 Session Laws of Kansas from the state general fund in the general state aid account, the sum of \$183,534,410 is hereby lapsed.

(e) On June 30, 2003, of the \$125,895,000 appropriated for the above agency for the fiscal year ending June 30, 2003, by section 97(a) of chapter 204 of the 2002 Session Laws of Kansas from the state general fund in the supplemental general state aid account, the sum of \$29,465,590 is hereby lapsed.”;

Also on page 31, in line 36, by striking “2003” and inserting “2004”;

On page 32, in line 16, by striking “\$225,000” and inserting “\$250,000”; in line 17, by striking “\$225,000” and inserting “\$250,000”; following line 17, by inserting new material to read as follows:

“*Provided*, That expenditures from the additional operating expenditures — Kansas soldiers’ home and Kansas veterans’ home account of the state general fund shall be made for the purposes of increasing the census at the Kansas soldiers’ home and the census at the Kansas veterans’ home and maximizing the ability of the Kansas commission on veterans affairs to qualify for additional federal department of veterans affairs per diem funding.”;

Also on page 32, by striking all in lines 18 and 19;

On page 33, by striking all in lines 32 through 43;

On page 36, by striking all in line 29; in line 30, by striking all preceding the comma, and inserting “from the employment security fund, from moneys made available to the state under section 903(d) of the federal social security act, as amended, and credited to the employment security fund”;

On page 37, by striking all of line 31, and inserting “\$2,275,567: *Provided*, That in addition to the other purposes for which expenditures may be made by the state board of healing arts from moneys appropriated from the healing arts fee fund for the fiscal year ending June 30, 2004, by this or other appropriation act of the 2003 regular session of the legislature, expenditures of \$300,000 shall be made for information technology projects.”; in line 32, by striking “2003” and inserting “2004”; in line 35, preceding the period, by inserting “: *Provided*, That in addition to the other purposes for which expenditures may be made by the state board of healing arts from moneys appropriated from the healing arts fee fund for the fiscal year ending June 30, 2005, by this or other appropriation act of the 2003 regular session of the legislature, expenditures of \$250,000 shall be made for information technology projects”;

On page 38, in line 2, by striking “2003” and inserting “2004”; in line 12, by striking “2003” and inserting “2004”; in line 21, by striking “2003” and inserting “2004”; in line 30, by striking “2003” and inserting “2004”;

On page 39, in line 9, by striking “\$1,051,504” and inserting “\$3,688,308”; in line 16, by striking “\$189,602” and inserting “\$172,682”; following line 25, by inserting new material to read as follows:

“Community based services

For the fiscal year ending June 30, 2004.....	\$2,537,902”;
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On page 40, by striking all in lines 17 through 20 and inserting new material to read as follows:

“(f) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2003, by section 95(b) of chapter 204 of the 2002 Session Laws of

Kansas on the child welfare services block grant federal fund is hereby increased from \$5,904,870 to \$6,075,615.”;

On page 41, in line 8, by striking “\$225,000” and inserting “\$300,000”; by striking all in lines 10 through 13;

And by redesignating the remaining subsections accordingly;

Also on page 41, in line 26, by striking “\$4,300,351” and inserting “\$3,420,191”; by striking all in lines 27 through 43;

On page 42, by striking all in lines 1 through 7 and inserting new material to read as follows:

“(s) During the fiscal year ending June 30, 2004, of the expenditures authorized by section 50 of 2003 Senate Bill No. 6 for HCBS/MRDD services, reimbursement rates for consumers with documented extraordinary needs who currently receive, have been approved for or leave a state institution or private institutional setting and are approved for special tier or individualized rates shall be maintained at a level no lower than the rate of reimbursement for these consumers on July 1, 2002: *Provided, however,* That, nothing in this subsection shall prohibit a reduction or guarantee an increase in the reimbursement rate for consumers with documented extraordinary needs because of a change as a result of the annual basis assessment: *Provided further,* That any reductions in the HCBS/MRDD funding in fiscal year 2004 shall be implemented based on information and recommendations obtained in the most recent rate study required under subsection (a)(3) of K.S.A. 39-1806 and amendments thereto.

(t) In addition to the other purposes for which expenditures may be made by the department of social and rehabilitation services from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2004 as authorized by this or other appropriation act of the 2003 regular session of the legislature, expenditures shall be made by the department of social and rehabilitation services from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2004 to collect data and prepare a report which shall be submitted to the legislature during the 2004 regular session on the impact of pharmaceutical prior authorization under the state medicaid plan on patients, providers and utilization of other medicaid services: *Provided,* That such report shall be delivered to the speaker of the house of representatives and the president of the senate no later than January 15, 2004: *Provided further,* That such report shall include (1) the number of patient and provider complaints received by the department of social and rehabilitation services, (2) any change in the number of physicians and other providers serving medicaid recipients, (3) the record of prior authorization response approvals, disapprovals and the response times therefor, (4) any evidence of any adverse clinical outcomes resulting from pharmaceutical prior authorization, (5) the costs in time and money of implementing pharmaceutical prior authorization, and (6) other information pertinent to the effect of the use of prior authorization for pharmaceutical products.

(u) During the fiscal year ending June 30, 2003, no expenditures shall be made by the department of social and rehabilitation services from the state operations account of the state general fund for closure of any local SRS area offices other than the local SRS area offices located in the cities of Cottonwood Falls, Ashland, Clay Center, Burlington, Coldwater, Ellsworth, Ulysses, Cimarron, Tribune, Mankato, Lakin, Dighton, Lincoln, Beloit, Seneca, Ness City, Minneapolis, Belleville, Johnson City, Alma, Washington and Yates Center: *Provided,* That the legislature shall review the local SRS area office closure process and additional closure recommendations of the department of social and rehabilitation services during the 2004 regular session of the legislature: *Provided further,* That the secretary of social and rehabilitation services shall report to the legislative budget committee during the 2003 interim should the secretary deem circumstances to warrant the closure of additional offices during the 2003 interim session: *And provided further,* That the legislative budget committee shall review the closure process for local SRS area offices and these additional recommendations: *And provided further,* That the department of social and rehabilitation services shall continue to develop service access points and distribute staff related to the redesign of local service delivery and workload requirements.

(v) (1) During the fiscal year ending June 30, 2003, the position limitation established by section 131(a) of chapter 204 of the 2002 Session Laws of Kansas for Larned State Hospital

of 725.8 full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, shall not be exceeded, except upon approval of the state finance council.

(2) On July 1, 2003, the position limitation established by section 85(a) of 2003 Senate Bill No. 6 for Larned State Hospital is hereby increased from 663.0 to 792.8.

(w) In addition to the other purposes for which expenditures may be made by the department of social and rehabilitation services from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2004 for the department of social and rehabilitation services as authorized by this or other appropriation act of the 2003 regular session of the legislature, expenditures shall be made by the department of social and rehabilitation services for fiscal year 2004 to prepare and submit an application for a federal waiver to increase the look-back period for the transfer of assets in determining medicaid eligibility from 3 years to 5 years.”;

Also on page 42, following line 23, by inserting new material to read as follows:

“LTC — medicaid assistance — HCBS/FE

For the fiscal year ending June 30, 2004..... \$2,925,294”;

Also on page 42, in line 29, following “governors”, by inserting “to the health facilities review fund of the department on aging”; following line 38, by inserting new material to read as follows:

“(e) During the fiscal years ending June 30, 2004, June 30, 2005, and June 30, 2006, the secretary of aging shall allocate the moneys appropriated for the department on aging from the state general fund program grants for the in-home nutrition program in excess of any appropriation required to match federal funds under the federal older Americans act during each such fiscal year so that no area agency on aging receives an aggregate amount of moneys from the state general fund for the federal older Americans act nutrition program for such fiscal year that is less than 92% of the aggregate amount received by such area agency on aging for the immediately preceding fiscal year.

(f) During the fiscal year ending June 30, 2004, the secretary of aging shall make expenditures from the moneys appropriated for fiscal year 2004 from the state general fund for the department on aging in the LTC — medicaid assistance — HCBS/FE account to reduce the HCBS/FE medicaid waiver waiting list: *Provided*, That expenditures from the LTC — medicaid assistance — HCBS/FE account to reduce the HCBS/FE medicaid waiver waiting list shall not be less than \$2,925,294.”;

On page 43, in line 14, following the period, by inserting “Such study shall include an examination of the effect of recent United States supreme court decisions, including *Atkins v. Virginia*, 122 S. Ct. 2242 (2002), on state statutory and constitutional law concerning execution of developmentally disabled persons.”; following line 23, by inserting new material to read as follows:

“(c) During the fiscal year ending June 30, 2004, on the date that the aggregate amount of revenue credited to the BOTA filing fee fund is equal to or exceeds \$300,000, as certified by the executive director of the state board of tax appeals to the director of accounts and reports, the expenditure limitation for the BOTA filing fee fund for fiscal year 2004 shall be increased by \$36,802.”;

Also on page 43, in line 29, by striking “\$501,053” and inserting “\$496,053”; in line 30, by striking “2003” and inserting “2004”; in line 33, by striking “\$548,083” and inserting “\$540,883”; in line 40, by striking “2003” and inserting “2004”;

On page 44, in line 7, by striking “2003” and inserting “2004”; in line 22, by striking “2003” and inserting “2004”;

On page 46, following line 7, by inserting new material to read as follows:

“(b) The director of accounts and reports shall not make the transfer of \$57,385 from the health care stabilization fund of the health care stabilization fund board of governors to the state general fund which was directed to be made on July 1, 2003, by section 32(c) of 2003 Senate Bill No. 6.”;

Also on page 46, following line 39, by inserting new material to read as follows:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

## Legislative coordinating council — operations

For the fiscal year ending June 30, 2004..... \$100,000”;

Also on page 46, in line 40, by striking “(a)” and inserting “(b)”;

On page 47, following line 4, by inserting new material to read as follows:

“Sec. 86. (a) On July 1, 2003, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,144,144 from the children’s initiatives fund to the state general fund.”;

And by renumbering sections accordingly;

On page 50, by striking all in lines 11 through 22 and inserting new material to read as follows:

“Sec. 88. On July 1, 2003, K.S.A. 75-6702 is hereby amended to read as follows: **75-6702.**

(a) The last appropriation bill passed in any regular session of the legislature shall be the omnibus reconciliation spending limit bill. Each bill which is passed during a regular session of the legislature and which appropriates or transfers money from the state general fund for the ensuing fiscal year shall contain a provision that such bill shall take effect and be in force from and after the effective date of the omnibus reconciliation spending limit bill for that regular session of the legislature or from and after such effective date and a subsequent date or an event occurring after such effective date.

(b) *Except as provided in subsection (c)*, the maximum amount of expenditures and demand transfers from the state general fund that may be authorized by act of the legislature during the 1994 2004 regular session of the legislature and each regular session of the legislature thereafter, is hereby fixed so that there will be an ending balance in the state general fund for the ensuing fiscal year that is equal to 7½% or more of the total amount authorized to be expended or transferred by demand transfer from the state general fund in such fiscal year.

(c) *The provisions of subsection (b) are hereby suspended for the fiscal year ending June 30, 2004, and shall not prescribe a maximum amount of expenditures and demand transfers from the state general fund that may be authorized by act of the legislature during the 2003 regular session of the legislature.*”;

On page 51, in line 13, by striking “2003” and inserting “2005”;

On page 53, in line 23, preceding “K.S.A.”, by inserting “K.S.A. 75-6702 and” also in line 23, by striking “and 82a-”; in line 24, by striking all preceding “are”;

On page 1, in the title, in line 15, before “K.S.A.” by inserting “K.S.A. 75-6702 and”; in line 16, by striking all after “79-3425c”; in line 17, by striking all before “and”;

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

STEPHEN R. MORRIS  
DAVID ADKINS  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

MELVIN NEUFELD  
CLARK SHULTZ  
ROCKY NICHOLS  
*Conferees on part of House*

On motion of Rep. Neufeld, the conference committee report on **S. Sub. for HB 2444** was adopted.

On roll call, the vote was: Yeas 79; Nays 45; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Beggs, Betts, Burroughs, Carlin, Compton, Craft, Crow, Dahl, DeCastro, Decker, Dillmore, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Grant, Hayzlett, Henderson, Henry, Horst, Huebert, Huff, Humerickhouse, D. Johnson, E. Johnson, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Pauls, Peterson, Phelps, Powell, Reardon, Rehorn, Ruff, Sawyer, Schwartz, B.

Sharp, Showalter, Shriver, Shultz, Swenson, Thimesch, Thull, Toelkes, Vickrey, Ward, J. Williams, Wilson, Winn.

Nays: Barbieri-Lightner, Bethell, Boyer, Brunk, Burgess, Campbell, Carter, Cox, Davis, Dreher, Edmonds, Faber, Goering, Goico, Gordon, Hill, Holland, Holmes, Howell, Huntington, Hutchins, Huy, Jack, Kassebaum, Kauffman, Loyd, Neighbor, Newton, O'Malley, O'Neal, Owens, Patterson, Powers, Reitz, Schwab, S. Sharp, Siegfried, Sloan, Storm, Svaty, Tafanelli, Wilk, D. Williams, Yoder, Yonally.

Present but not voting: None.  
Absent or not voting: Pottorff.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: There are a number of provisions that I support in this bill such as the additional funding for social services. This bill takes a big step towards ending the waiting lists, which I enthusiastically support. However, I cannot vote for this bill for two significant reasons. It is bad policy for the State to essentially borrow from taxpayers by holding onto their refunds to balance the budget. It is also very bad policy for the Legislature to meddle in university curriculum. This sends a very disturbing message to higher education in Kansas. For these reasons, I vote No on **S. Sub. for HB 2444**.—PAUL DAVIS

MR. SPEAKER: I vote no on **S. Sub. for HB 2444**. I have lived in western Kansas, central Kansas and eastern Kansas. In all my experiences with my fellow Kansans, I can say one thing: they strive for the best, expect the best, deliver the best, and therefore produce the best.

During discussions this morning I heard two comments that were incongruent with these experiences:

1. This is as good as it's going to get, and
2. It's the best we can do.

Since when is the best we can do equal to the least common denominator? No Kansan deserves mediocrity. Not my constituents, not yours. Vote NO, your constituents would. —STEPHANIE SHARP

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2014**, submits the following report:

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

On page 1, after line 19, by inserting the following:

“Section 1. K.S.A. 2002 Supp. 20-2610a is hereby amended to read as follows: 20-2610a. (a) A judge may elect to have such judge's retirement annuity paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 20-2610 and amendments thereto. Such election shall be made before the date of actual retirement. A specific person shall be designated as joint annuitant at the time of election of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the judge.

(b) The amount of retirement annuity payable under an option shall be based on the age of the judge and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto as prescribed in subsection (c). Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion. In no case shall the total amount of retirement annuity payable under any option provided in this section be more than 100% of the retirement annuity which would have been otherwise payable if no option had been elected under this section.

(c) The following retirement options, which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:



(1) *Joint and ½ to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 91% minus .4% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .4% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with ½ of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(2) *Joint and survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 83% minus .6% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .6% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(3) *Joint and ¾ to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 87% minus .5% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .5% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with ¾ of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(4) *Life with 5 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the five-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the five-year certain period.

(5) *Life with 10 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the ten-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the ten-year certain period.

(6) *Life with 15 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the fifteen-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the fifteen-year certain period.

(7) *Lump sum payment at retirement.* (A) Pursuant to this option, the judge must specify a lump sum amount to be paid to the judge upon the judge's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 20-

2610, and amendments thereto. The lump sum amount designated by the judge must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the benefit provided in K.S.A. 20-2610, and amendments thereto. *If the judge's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (d), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the option selected in this section.*

(B) Pursuant to this option, the judge must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 20-2610, and amendments thereto, or subsections (c)(1) through (c)(6) of this section.

(C) In the event that the designated joint annuitant pursuant to subsection (c)(1), (c)(2) or (c)(3), under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) The provisions of this subsection shall be effective on and after July 1, 2001.

(d) If a judge, who is eligible to retire, dies without having actually retired, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits as a joint annuitant under one of the options provided in this section in lieu of receiving the judge's accumulated contributions.

(e) On and after July 1, 1993, if a judge with 15 or more years of credited service dies before attaining retirement age, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the judge's accumulated contributions. Payments under one of the options provided in this section to the judge's spouse if so elected, shall commence on the date that the judge would have first attained retirement age.

(f) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(g) The provisions of the law in effect on the retirement date of a judge under the retirement system for judges shall govern the retirement annuity payable to the retired judge and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for judges who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (c)(1), (2) or (3), as applicable, predeceased the judge, the amount of the retirement benefit otherwise payable to the judge under the option provided in subsection (c)(1), (2) or (3), as applicable, shall be adjusted automatically to the retirement benefit which the judge would have received if no option had been elected under this section.

(h) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retired judge over the sum of all retirement benefit payments made to such retired judge and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retired judge. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (1) The joint annuitant's surviving spouse;
- (2) the joint annuitant's dependent child or children;
- (3) the joint annuitant's dependent parent or parents;
- (4) the joint annuitant's nondependent child or children;
- (5) the joint annuitant's nondependent parent or parents; or
- (6) the estate of the deceased joint annuitant.

(i) In any event, benefits shall be adjusted as necessary to satisfy the incidental death benefits regulations under the federal internal revenue code.

Sec. 2. K.S.A. 74-4902 is hereby amended to read as follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amendments thereto, unless otherwise provided or the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account, with interest allowed thereon;

(2) "acts" means the provisions of articles 49 and 49a of the Kansas Statutes Annotated and amendments thereto;

(3) "actuarial equivalent" means an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion;

(4) "actuarial tables" means the actuarial tables approved and in use by the board at any given time;

(5) "actuary" means the actuary or firm of actuaries employed or retained by the board at any given time;

(6) "agent" means the individual designated by each participating employer through whom system transactions and communication are directed;

(7) "beneficiary" means any natural person or persons or estate named by a member to receive any benefits as provided for by this act. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living at time of member's death, any benefits provided for by this act shall be paid to: (A) The member's surviving spouse; (B) the member's dependent child or children; (C) the member's dependent parent or parents; (D) the member's nondependent child or children; (E) the member's nondependent parent or parents; (F) the estate of the deceased member; in the order of preference as specified in this subsection.

(8) "board of trustees," "board" or "trustees" means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;

(9) "compensation" means, except as otherwise provided, all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer's fiscal year which begins in calendar year 1991 or for employers other than the state of Kansas, beginning with the fiscal year which begins in calendar year 1992, when the compensation of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in compensation, except that (A) any amount of compensation for accumulated sick leave or vacation or annual leave paid to the member, (B) any increase in compensation for any member due to a reclassification or reallocation of such member's position or a reassignment of such member's job classification to a higher range or level and (C) any increase in compensation as provided in any contract entered into prior to January 1, 1991, and still in force on the effective date of this act, pursuant to an early retirement incentive program as provided in K.S.A. 72-5395 *et seq.* and amendments thereto, shall be included in the amount of compensation of such member used in determining such member's final average salary and shall not be subject to the 15% limitation provided in this subsection. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, beginning with the employer's fiscal year coinciding with or following July 1, 1985, compensation shall include any amounts for tax sheltered annuities or deferred compensation plans. Beginning with the employer's fiscal year which begins in calendar year 1991, compensation shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue

code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "compensation" shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto;

(10) "credited service" means the sum of participating service and prior service and in no event shall credited service include any service which is credited under another retirement plan authorized under any law of this state;

(11) "dependent" means a parent or child of a member who is dependent upon the member for at least ½ of such parent or child's support;

(12) "effective date" means the date upon which the system becomes effective by operation of law;

(13) "eligible employer" means the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned or any noncommercial public television or radio station located in this state which receives state funds allocated by the Kansas public broadcasting commission whose employees are covered by social security. If a class or several classes of employees of any above defined employer are not covered by social security, such employer shall be deemed an eligible employer only with respect to such class or those classes of employees who are covered by social security;

(14) "employee" means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, and any such officer or employee who is concurrently employed performing similar or related tasks by two or more participating employers, who each remit employer and employee contributions on behalf of such officer or employee to the system, and whose combined employment is not seasonal or temporary, and whose combined employment requires at least 1,000 hours of work per year, but not including: (A) Any employee who is a contributing member of the United States civil service retirement system; (B) any employee who is a contributing member of the federal employees retirement system; (C) any employee who is a leased employee as provided in section 414 of the federal internal revenue code of a participating employer; and (D) any employee or class of employees specifically exempted by law. After June 30, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto, except that no person shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925 and amendments thereto. After June 30, 1982, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for any benefit under another retirement plan authorized under any law of this state, except that no such person shall receive service credit under the Kansas public employees retirement system for any period of service for which any benefit accrues or is granted under any such retirement plan. Employee shall include persons who are in training at or employed by, or both, a sheltered workshop for the blind operated by the secretary of social and rehabilitation services. The entry date for such persons shall be the beginning of the first pay period of the fiscal year commencing in calendar year 1986. Such persons shall be granted prior service credit in accordance with K.S.A. 74-4913 and amendments thereto. However, such persons classified as home industry employees shall not be covered by the retirement system. Employees shall include any member of a board of county commissioners of any county and any council member or commissioner of a city whose compensation is equal to or exceeds \$5,000 per year;

(15) "entry date" means the date as of which an eligible employer joins the system. The first entry date pursuant to this act is January 1, 1962;

(16) "executive director" means the managing officer of the system employed by the board under this act;

(17) "final average salary" means in the case of a member who retires prior to January 1, 1977, and in the case of a member who retires after January 1, 1977, and who has less than five years of participating service after January 1, 1967, the average highest annual compensation paid to such member for any five years of the last 10 years of participating

service immediately preceding retirement or termination of employment, or in the case of a member who retires on or after January 1, 1977, and who has five or more years of participating service after January 1, 1967, the average highest annual compensation paid to such member on or after January 1, 1967, for any five years of participating service preceding retirement or termination of employment, or, in any case, if participating service is less than five years, then the average annual compensation paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12; in the case of a member who became a member under subsection (3) of K.S.A. 74-4925 and amendments thereto, or who became a member with a participating employer as defined in subsection (3) of K.S.A. 74-4931 and amendments thereto and who elects to have compensation paid in other than 12 equal installments, such compensation shall be annualized as if the member had elected to receive 12 equal installments for any such periods preceding retirement; in the case of a member who retires after July 1, 1987, the average highest annual compensation paid to such member for any four years of participating service preceding retirement or termination of employment; in the case of a member who retires on or after July 1, 1993, whose date of membership in the system is prior to July 1, 1993, and any member who is in such member's membership waiting period on July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual compensation, as defined in subsection (9), paid to such member for any four years of participating service preceding retirement or termination of employment or the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater; and in the case of a member who retires on or after July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment. Final average salary shall not include any purchase of participating service credit by a member as provided in subsection (2) of K.S.A. 74-4919h and amendments thereto which is completed within five years of retirement. For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or will begin paying to the system a lump-sum amount for such member's purchase or repurchase and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications. For purposes of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system. In the case of any former member who was eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto prior to July 1, 1998, for the purpose of calculating final average salary of such member, such member's final average salary shall be based on such member's salary while a member of the system or while eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto, whichever is greater;

(18) "fiscal year" means, for the Kansas public employees retirement system, the period commencing July 1 of any year and ending June 30 of the next;

(19) "Kansas public employees retirement fund" means the fund created by this act for payment of expenses and benefits under the system and referred to as the fund;

(20) "leave of absence" means a period of absence from employment without pay, authorized and approved by the employer, and which after the effective date does not exceed one year;

(21) "member" means an eligible employee who is in the system and is making the required employee contributions; any former employee who has made the required contributions to the system and has not received a refund if such member is within five years of

termination of employment with a participating employer; or any former employee who has made the required contributions to the system, has not yet received a refund and has been granted a vested benefit;

(22) "military service" means service in the uniformed forces of the United States, for which retirement benefit credit must be given under the provisions of USERRA or service in the armed forces of the United States or in the commissioned corps of the United States public health service, which service is immediately preceded by a period of employment as an employee or by the entering into of an employment contract with a participating employer and is followed by return to employment as an employee with the same or another participating employer within 12 months immediately following discharge from such military service, except that if the board determines that such return within 12 months was made impossible by reason of a service-connected disability, the period within which the employee must return to employment with a participating employer shall be extended not more than two years from the date of discharge or separation from military service;

(23) "normal retirement date" means the date on or after which a member may retire with full retirement benefits pursuant to K.S.A. 74-4914 and amendments thereto;

(24) "participating employer" means an eligible employer who has agreed to make contributions to the system on behalf of its employees;

(25) "participating service" means the period of employment after the entry date for which credit is granted a member;

(26) "prior service" means the period of employment of a member prior to the entry date for which credit is granted a member under this act;

(27) "prior service annual salary" means the highest annual salary, not including any amounts received as payment for overtime or as reimbursement for travel or moving expense, received for personal services by the member from the current employer in any one of the three calendar years immediately preceding January 1, 1962, or the entry date of the employer, whichever is later, except that if a member entered the employment of the state during the calendar year 1961, the prior service annual salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(28) "retirant" means a member who has retired under this system;

(29) "retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification a surviving spouse may negotiate the warrant issued in the name of the retirant. If there is no surviving spouse, the last warrant shall be payable to the designated beneficiary;

(30) "retirement system" or "system" means the Kansas public employees retirement system as established by this act and as it may be amended;

(31) "social security" means the old age, survivors and disability insurance section of the federal social security act;

(32) "total disability" means a physical or mental disability which prevents the member from engaging, for remuneration or profit, in any occupation for which the member is reasonably suited by education, training or experience;

(33) "trust" means an express trust, created by a trust instrument, including a will, designated by a member to receive payment of the insured death benefit under K.S.A. 74-4927 and amendments thereto and payment of the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust shall be filed with the board. If there is a designated trust at the time of the member's death, the insured death benefit for the member under K.S.A. 74-4927 and amendments thereto and the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid to the trust in lieu of the member's beneficiary. If no will is admitted to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, the insured death benefit under K.S.A. 74-4927 and amendments thereto and the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid in accordance with the provisions of subsection (7) of this section

as in other cases where there is no named beneficiary living at the time of the member's death and any payments so made shall be a full discharge and release to the system from any further claims;

(34) "salary" means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "salary" shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(35) "federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as in effect on July 1, ~~1998~~ 2002, and as applicable to a governmental plan; and

(36) "USERRA" means the federal uniformed services employment and reemployment rights act of 1994 as in effect on July 1, 1998.

Sec. 3. K.S.A. 74-4908 is hereby amended to read as follows: 74-4908. (1) The board shall appoint an executive director and shall establish the compensation therefor. Subject to the direction of the board, the executive director shall be the managing officer of the system and as such shall have charge of the office, records and supervision and direction of the employees of the system. The executive director shall be in the unclassified service under the Kansas civil service act.

(2) The executive director shall recommend to the board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this act and the directions of the board. Upon approval of the board, the executive director is authorized to employ such persons in accordance with the Kansas civil service act.

(3) The board of trustees shall select and employ or retain a qualified actuary who shall serve at its pleasure as its technical advisor on matters regarding operation of the system. The actuary shall:

(a) Make an annual valuation of the liabilities and reserves of the system, and a determination of the contributions required by the system to discharge its liabilities and administrative costs under this act, and recommend to the board rates of employer contributions required to establish and maintain the system on an actuarial reserve basis. Such recommended employer contributions shall not be based on any other purpose outside of the needs of the system as prescribed by this subsection.

(b) As soon after the effective date as practicable and once every three years thereafter, make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation.

(c) Cooperate with and provide any assistance to the actuary, the legislative coordinating council and the joint committee on pensions, investments and benefits related to the in-

dependent actuarial audit and evaluation as provided in K.S.A. 74-4908a and amendments thereto.

(d) Perform such other duties as may be assigned by the board.

(4) The attorney general of the state shall furnish such legal services as may be necessary upon receipt of a request from the board, except that legal services may be furnished by other counsel as the board in its discretion deems necessary and prudent.

(5) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(6) ~~The~~ *Subject to limitations imposed pursuant to this subsection and otherwise provided by law, the board may appoint a deputy executive director, an investment officer, an investment analyst, a real estate manager, a direct placement manager, a chief fiscal officer, a member services officer, an attorney, an assistant investment officer, an information resource officer and an investment operations analyst such officers and employees necessary to advise and assist the board in the performance of powers, duties and functions relating to the management and investment of the fund and in such other matters as may be directed by the board. Such appointed officers and employees shall be in the unclassified service under the Kansas civil service act. Not more than 25% of the total number of officers and employees appointed or employed by the system shall be in the unclassified service. The provisions of this subsection shall not affect the classified status of any employee in the classified service under the Kansas civil service act who is employed on the date immediately preceding the effective date of this act. The board is authorized to assign any new or vacant position created by the system on or after the effective date of this act to the classified or unclassified service under the Kansas civil service act.* The compensation of such appointed officers and employees in the unclassified service under the Kansas civil service act shall be established by the board.

(7) The board may establish a program for the paying of bonus awards to unclassified officers and employees pursuant to procedures established by the board.

Sec. 4. K.S.A. 74-4918 is hereby amended to read as follows: 74-4918. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 74-4915 and amendments thereto. Such election must be made before the date of actual retirement. A specific person must be designated as joint annuitant at the time of election of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto, as prescribed in subsection (3). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) The following retirement options, which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:

(A) *Joint and  $\frac{1}{2}$  to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 91% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with  $\frac{1}{2}$  of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement



benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 83% minus .6% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .6% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and  $\frac{3}{4}$  to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 87% minus .5% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .5% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with  $\frac{3}{4}$  of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4915, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the benefit provided in K.S.A. 74-4915, and amendments thereto. *If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (4), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the option selected in this section.*

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4915, and amendments thereto, or subsections (3)(A) through (3)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (3)(A), (3)(B) or (3)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(4) If a member, who is eligible to retire in accordance with the provisions of K.S.A. 74-4914 and amendments thereto, dies without having actually retired, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions.

(5) The benefits of subsection (4) shall be available in the case of death within the first six months after the entry date of the member's participating employer.

(6) On and after January 1, 1991, if a member with 15 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (3)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (3)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

Sec. 5. K.S.A. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability over a

period of 40 years commencing on July 1, 1993, and the actuarial accrued liability for members of the faculty and other persons who are employed by the state board of regents or by educational institutions under its management assisted by the state board of regents in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto, as provided in this section. The actuarial accrued liability for all participating employers other than the state board of regents relating to members of the faculty and other persons described in this section, shall be amortized by annual payments that increase 4% for each year remaining in the amortization period. For all participating employers other than the state board of regents relating to members of the faculty and other persons described in this section, the projected unit credit actuarial cost method shall be used in annual actuarial valuations, commencing with the 1993 valuation, to determine the employer contribution rates that shall be certified by the board. The actuarial accrued liability for members of the faculty and other persons described in this subsection assisted by the state board of regents in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto shall be amortized by annual level payments over a period of 11 years commencing July 1, 1993. Such certified rate of contribution shall be based on the standards set forth in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized over a period of 34 years commencing on July 1, 1999, by annual payments that increase 4% for each year remaining in the amortization period. For all participating employers described in this section, the projected unit credit actuarial cost method shall be used in annual actuarial valuations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize over a period of not to exceed 34 years commencing July 1, 1999, all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774 and amendments thereto by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares

a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) The rate of contribution certified to a participating employer as provided in this section shall apply during the fiscal year of the participating employer which begins in the second calendar year following the year of the actuarial valuation. For the fiscal year commencing in calendar year 1993, the employer rate of contribution for the state of Kansas and for participating employers under K.S.A. 74-4931 and amendments thereto shall be 3.1% of the amount of compensation upon which members contribute during the period. For the fiscal year commencing in calendar year 1994, the employer rate of contribution for the state of Kansas and for participating employers under K.S.A. 74-4931 and amendments thereto shall be 3.2% of the amount of compensation upon which members contribute during the period. For the fiscal year commencing in calendar year 1994, the employer rate of contribution for participating employers other than the state of Kansas shall be 2.2% of the amount of compensation upon which members contribute during the period. Except as specifically provided in this section, for the fiscal year commencing in calendar year 1995, the rate of contribution certified to a participating employer shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.1% of the amount of compensation upon which members contribute during the period. Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than 0.2% of the amount of compensation upon which members contribute during the period. *Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (a) For the fiscal year commencing in calendar year 2005, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (b) for the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (c) for the fiscal year commencing in calendar year 2007 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal years.* Except as specifically provided in this section, for fiscal years commencing in calendar year 1997 and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period. There shall be an employer rate of contribution certified to the state of Kansas and participating employers under K.S.A. 74-4931 and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers other than the state of Kansas.

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment.

(9) *Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 et seq. and amendments thereto shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 et seq. and amendments thereto shall be amortized over 10 years.*

(10) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912 and amendments thereto at rates different from the rate fixed for employers joining within one year of the first entry date.

~~(10)~~ (11) For employers affiliating on and after January 1, 1999, the rates of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such certification, but the rate of contribution during the first year following the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount of such first year's contribution which may be in excess of the necessary current service contribution shall be credited by the board to the respective employer's prior service liability.

~~(11)~~ (12) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

~~(12)~~ (13) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204 and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.”;

And by renumbering sections accordingly;

On page 7, in line 41, after the period by inserting “With regard to a state officer who is a member of the legislature who has retired pursuant to the Kansas public employees retirement system and who files an election as provided in this section, employee's salary means per diem compensation as provided by law as a member of the legislature.”;

On page 16, after line 4, by inserting the following:

“Sec. 11. K.S.A. 74-4963 is hereby amended to read as follows: 74-4963. (1) Upon termination of employment prior to the completion of 20 years of credited service, after 30 days after such termination a member may withdraw such member's accumulated contributions or elect to leave such accumulated contributions on deposit with the system. If the member elects to leave the accumulated contributions on deposit with the system and if the member returns to employment with the same or another participating employer within five years, such member shall receive credit for such member's service prior to such termination. If the member does not elect to leave the accumulated contributions on deposit or if the member does not return to covered employment within five years, such member shall no longer be a member of the system and the sum of such member's accumulated contributions then on deposit with this system shall be paid to such member after making application in a form prescribed by the board and after the system has a reasonable time to process the application for withdrawal. Upon proper notification by the system, member contributions not on deposit with the system shall be paid to the member by the participating employer.

(2) If, after termination and withdrawal of accumulated contributions, a former member returns to covered employment, except as otherwise provided in subsection (1), the former member shall become a member of the system as provided in subsection (2) of K.S.A. 74-4955 and amendments thereto. Any former member returning to covered employment may, at the former member's option, purchase service credit for such previously forfeited service credit, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. ~~74-4919~~ 74-4965, and amendments thereto, based upon the member's attained age

at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased. Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, such member may elect to effect such purchase by means of a single lump-sum payment in lieu of the increased amount of the employee's contribution rate otherwise provided for in this act in an amount equal to the then present value of the benefits being purchased determined by the actuary using the member's attained age, annual compensation at the time of purchase and the actuarial assumptions and tables then in use by the retirement system. The lump-sum payment shall be made immediately upon being notified of the amount due. Upon receipt of such payment by the system the member shall receive full credit for the number of previously forfeited quarters of participating service which the member has elected to repurchase. Any member who repurchases all of the member's previously forfeited participating service credit shall also receive all of the member's previously forfeited prior service credit.

(3) Upon termination and withdrawal of accumulated contributions, any member whose employment was, up to the member's employer's entry date, covered by a pension system established under the provisions of K.S.A. 13-14a01 through 13-14a14, and amendments thereto, or K.S.A. 14-10a01 through 14-10a15, and amendments thereto, shall be entitled to receive from the member's employer the sum of the member's accumulated contributions to the previous pension system.

(4) If a member has completed 20 years of credited service at date of termination, the member shall be granted automatically a vested retirement benefit in the system, but any time prior to the commencement of retirement benefit payments and before attaining age 55 the member may withdraw the member's accumulated contributions, whereupon the member's membership in this system ceases and no other amounts shall be payable for the member's prior and participating service credit. Eligibility of such member, who has not withdrawn the member's accumulated contributions, for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto, except that in lieu of the three-month notice of intention to retire being made to the employer, such member shall make application for retirement in a form prescribed by the board and retirement benefits shall accrue from the first day of the month following receipt of such application. The amount of the retirement benefit shall be determined as provided in K.S.A. 74-4958 and amendments thereto.

(5) If a member, who has a vested retirement benefit, again becomes an employee of a participating employer, the amount of the member's vested retirement benefit shall remain in effect, and any retirement benefit such member subsequently accrues shall be calculated separately based on credited service after again becoming an employee and shall be added to that which had been vested by virtue of previous service. Eligibility of such member for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto.

(6) Any member of this system who was previously a member of the Kansas public employees retirement system or the retirement system for judges and who forfeited service credit under either of those systems by reason of termination of employment and withdrawal of their contributions to that system, may elect, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, to purchase service credit for the previously forfeited service credit by means of a single lump-sum payment and such service shall be recredited to that system. The amount of the lump-sum payment shall be determined by the actuary using the member's then current annual rate of compensation and the actuarial assumptions and tables then currently in use by that retirement system.

(7) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

Sec. 12. K.S.A. 74-4963a is hereby amended to read as follows: 74-4963a. (1) Upon termination of employment prior to the completion of 15 years of credited service, after 30 days after such termination a member may withdraw such member's accumulated contributions or elect to leave such accumulated contributions on deposit with the system. If the

member elects to leave the accumulated contributions on deposit with the system and if the member returns to employment with the same or another participating employer within five years, such member shall receive credit for such member's service prior to such termination. If the member does not elect to leave the accumulated contributions on deposit or if the member does not return to covered employment within five years, such member shall no longer be a member of the system and the sum of such member's accumulated contributions then on deposit with this system shall be paid to such member after making application in a form prescribed by the board and after the system has a reasonable time to process the application for withdrawal. Upon proper notification by the system, member contributions not on deposit with the system shall be paid to the member by the participating employer.

(2) If, after termination and withdrawal of accumulated contributions, a former member returns to covered employment, except as otherwise provided in subsection (1), the former member shall become a member of the system as provided in subsection (2) of K.S.A. 74-4955 and amendments thereto. Any former member returning to covered employment may, at the former member's option, purchase service credit for such previously forfeited service credit, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. ~~74-4919~~ 74-4965, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased. Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, such member may elect to effect such purchase by means of a single lump-sum payment in lieu of the increased amount of the employee's contribution rate otherwise provided for in this act in an amount equal to the then present value of the benefits being purchased determined by the actuary using the member's attained age, annual compensation at the time of purchase and the actuarial assumptions and tables then in use by the retirement system. The lump-sum payment shall be made immediately upon being notified of the amount due. Upon receipt of such payment by the system the member shall receive full credit for the number of previously forfeited quarters of participating service which the member has elected to repurchase. Any member who repurchases all of the member's previously forfeited participating service credit shall also receive all of the member's previously forfeited prior service credit.

(3) Upon termination and withdrawal of accumulated contributions, any member whose employment was, up to the member's employer's entry date, covered by a pension system established under the provisions of K.S.A. 13-14a01 through 13-14a14, and amendments thereto, or K.S.A. 14-10a01 through 14-10a15, and amendments thereto, shall be entitled to receive from the member's employer the sum of the member's accumulated contributions to the previous pension system.

(4) If a member has completed 15 years of credited service at date of termination, the member shall be granted automatically a vested retirement benefit in the system, but any time prior to the commencement of retirement benefit payments and before attaining age 55 the member may withdraw the member's accumulated contributions, whereupon the member's membership in this system ceases and no other amounts shall be payable for the member's prior and participating service credit. Eligibility of such member, who has not withdrawn the member's accumulated contributions, for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto, except that in lieu of the three-month notice of intention to retire being made to the employer, such member shall make application for retirement in a form prescribed by the board and retirement benefits shall accrue from the first day of the month following receipt of such application. The amount of the retirement benefit shall be determined as provided in K.S.A. 74-4958 and amendments thereto.

(5) If a member, who has a vested retirement benefit, again becomes an employee of a participating employer, the amount of the member's vested retirement benefit shall remain in effect, and any retirement benefit such member subsequently accrues shall be calculated separately based on credited service after again becoming an employee and shall be added

to that which had been vested by virtue of previous service. Eligibility of such member for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto.

(6) Any member of this system who was previously a member of the Kansas public employees retirement system or the retirement system for judges and who forfeited service credit under either of those systems by reason of termination of employment and withdrawal of their contributions to that system, may elect, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, to purchase service credit for the previously forfeited service credit by means of a single lump-sum payment and such service shall be recredited to that system. The amount of the lump-sum payment shall be determined by the actuary using the member's then current annual rate of compensation and the actuarial assumptions and tables then currently in use by that retirement system.

(7) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 13. K.S.A. 74-4964 is hereby amended to read as follows: 74-4964. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958 and amendments thereto as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) If a member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 to 13-14a14, inclusive or 14-10a01 through 14-10a15, inclusive, and amendments thereto so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958 and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959 and amendments thereto, may elect to receive benefits under one of the options provided in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:

(A) *Joint and  $\frac{1}{2}$  to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 94.5% minus .2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with  $\frac{1}{2}$  of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement



benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 88% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and  $\frac{3}{4}$  to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 91% minus .3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with  $\frac{3}{4}$  of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the benefit provided in K.S.A. 74-4958, and amendments thereto. *If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (6), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the option selected in this section.*

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959 and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

Sec. 14. K.S.A. 74-4964a is hereby amended to read as follows: 74-4964a. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such

amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958 and amendments thereto as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) If a member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 through 13-14a14, inclusive or 14-10a01 through 14-10a15, inclusive, and amendments thereto so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958 and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959 and amendments thereto, may elect to receive benefits under one of the options provided in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:

(A) *Joint and 1/2 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 94.5% minus .2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 1/2 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 88% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and 3/4 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 91% minus .3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 3/4 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically

to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958a, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the benefit provided in K.S.A. 74-4958a, and amendments thereto. *If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (6), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the option selected in this section.*

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958a, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959 and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection

(5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 15. K.S.A. 74-49,110 is hereby amended to read as follows: 74-49,110. There is hereby created the retirant dividend payment reserve in the Kansas public employees retirement fund. Prior to ~~October 1, 1980, and~~ each October 1 thereafter, the board of trustees of the Kansas public employees retirement system shall credit to the retirant dividend payment reserve an amount equal to the ~~lesser of (1) the amount equal to fifteen percent (15%) of the net amount of interest and dividend income during the fiscal year ending on the next preceding June 30 on the investment of the moneys in the fund, adjusted for all realized gains and losses at the end of such fiscal year or (2) the amount equal to the total of (A) the amount required to pay the maximum benefits under K.S.A. 74-49,111, and amendments thereto during the current year and (B) the amount which was required to pay the maximum benefits under K.S.A. 74-49,111 during the preceding year, except that in no case shall the amount credited under this section result in a carryover balance in the retirant dividend payment reserve, after payment of all retirant dividend payments that year, of more than an amount equal to the amount which was required to pay the maximum benefits under K.S.A. 74-49,111 during the preceding year.~~ Such amounts shall be credited from the retirement benefit accumulation reserve.

New Sec. 16. (a) For the purpose of financing a portion of the unfunded actuarial pension liability of the Kansas public employees retirement system, the Kansas development finance authority is hereby authorized to issue one or more series of revenue bonds under the Kansas development finance authority act in an amount necessary to provide a deposit or deposits in a total amount not to exceed \$500,000,000 to the Kansas public employees retirement system and to pay the costs of issuance of the bonds, including any credit enhancement, and provide any required reserves for the bonds. The principal amount, interest rates and final maturity of such revenue bonds and any bonds issued to refund such bonds or parameters for such principal amount, interest rates and final maturity shall be approved by a resolution of the state finance council. The state finance council shall review and determine the lowest cost method for financing such bonds, including, but not limited to, issues related to the tax status of the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from moneys appropriated by the state for such purpose. The bonds and interest thereon, issued pursuant to this section shall be obligations only of the authority and in no event shall such bonds constitute an indebtedness or obligation of the Kansas public employees retirement system or an indebtedness or obligation for which the faith and credit or any assets of the system are pledged.

(b) As used in this section, "unfunded actuarial pension liability" means the unfunded actuarially accrued liability of the state for the state of Kansas and participating employers under K.S.A. 74-4931 and amendments thereto portion of such liability of the Kansas public employees retirement system, determined as of the later of December 31, 2001, or the end

of the most recent calendar year for which an actuarial valuation report is available and certified to the Kansas development finance authority by the executive secretary of the Kansas public employees retirement system.

(c) (1) The authority may pledge the contract or contracts authorized in subsection (d), or any part thereof, for the payment or redemption of the bonds, and covenant as to the use and disposition of money available to the authority for payments of the bonds. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section.

(2) The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this section, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to the Kansas public employees retirement system to be applied to the payment, in full or in part, of the unfunded accrued pension liability as directed by the Kansas public employees retirement system.

(3) The state hereby pledges and covenants with the holders of any bonds issued pursuant to the provisions of this section, that it will not limit or alter the rights or powers vested in the authority by this section, nor limit or alter the rights or powers of the authority, the department of administration or the Kansas public employees retirement system, in any manner which would jeopardize the interest of the holders or any trustee of such holders or inhibit or prevent performance or fulfillment by the authority, the department of administration or the Kansas public employees retirement system with respect to the terms of any agreement made with the holders of the bonds or agreements made pursuant to this section, except that the failure of the legislature to appropriate moneys for any purpose shall not be deemed a violation of this pledge and covenant. The department of administration is hereby specifically authorized to include this pledge and covenant in any agreement with the authority. The authority is hereby specifically authorized to include this pledge and covenant in any bond resolution, trust indenture or agreement for the benefit of holders of the bonds.

(4) Revenue bonds may be issued pursuant to this section without obtaining the consent of any department, division, commission, board or agency of the state, other than the approvals of the state finance council required by this section, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by the Kansas development finance authority act.

(d) The department of administration and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in this section. The contract or contracts shall provide for payment of the amounts required to be paid pursuant to this section and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions including principal amount, interest rates and final maturity as shall be approved by resolution of the state finance council and shall include, but not be limited to, terms and conditions necessary or desirable to provide for repayment of and to secure any bonds of the authority issued pursuant to this section.

(e) The approvals by the state finance council required by subsection (a) and (d) are hereby characterized as matters of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto. Such approvals may be given by the state finance council when the legislature is in session.

(f) No bonds shall be issued pursuant to this section prior to the review of and recommendation to the state finance council of such issuance by the joint committee on pensions, investments and benefits.

New Sec. 17. (a) For the purposes of providing the "insured death benefit" and "long-term disability benefit" as prescribed in K.S.A. 74-4927 and amendments thereto and of providing the "accidental death benefit" as prescribed in subsection (2) of K.S.A. 74-4916 and amendments thereto, to all members of the legislature who have failed to file the election to become a member of the retirement system pursuant to K.S.A. 74-4911 and amendments thereto, and who have filed an election to be covered pursuant to the provisions of K.S.A. 74-4916 and 74-4927 and amendments thereto as provided in this subsection, the term "member" as used in K.S.A. 74-4927 and amendments thereto and subsection (2) of K.S.A. 74-4916 and amendments thereto and as used in this section shall include such

members of the legislature. Such election as provided in this subsection shall be filed with the system within 90 days of the effective date of this act or within 90 days after taking the oath of office. If a member of the legislature fails to file such election as provided in this subsection, it shall be presumed such member of the legislature has elected to not be covered pursuant to the provisions of K.S.A. 74-4916 and 74-4927 and amendments thereto.

(b) The division of legislative administrative services shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe, an amount sufficient to pay the employer's contribution to the group insurance reserve as provided in subsection (4) of K.S.A. 74-4927 and amendments thereto.

(c) The division of legislative administrative services shall maintain a file of the beneficiaries named by the persons covered under this section in the form and manner as prescribed by the board of trustees of the Kansas public employees retirement system.”;

And by renumbering sections accordingly;

Also on page 16, in line 27, by striking “ac-”; in line 28, by striking “crued” and inserting “actuarial”; in line 30, by striking “7” and inserting “19”; also in line 30, after “thereto” by inserting “and related to persons entitled to benefits pursuant to the provisions of K.S.A. 74-49,109 and amendments thereto”; in line 34, by striking “\$15.5 million” and inserting “\$40,400,000 of which no more than \$15,500,000 of such deposit or deposits shall be related to persons designated as special members pursuant to section 19 and amendments thereto and no more than \$24,900,000 of such deposit or deposits shall be related to persons entitled to benefits pursuant to the provisions of K.S.A. 74-49,109 and amendments thereto.”; in line 41, by striking all after “by”; in line 42, by striking “council” and inserting “the secretary of administration”;

On page 17, in line 8, by striking “accrued” and inserting “actuarial” line 10, by striking “7” and inserting “19”; in line 11, after “thereto” by inserting “and for persons entitled to benefits pursuant to the provisions of K.S.A. 74-49,109 and amendments thereto”; in line 42, by striking “is” and inserting “and the Kansas public employees retirement system are”;

On page 18, in line 11, after “regents” by inserting “, the Kansas public employees retirement system”; in line 19, by striking “resolution of the state finance council” and inserting “the secretary of administration”; by striking all in lines 23 through 28; in line 29, after “K.S.A.” by inserting “74-4902, 74-4908,”; also in line 29, after “74-4911f,” by inserting “74-4918, 74-4920,”; also in line 29, by striking “and” and inserting a comma; in line 30, after “4927k” by inserting “, 74-4963, 74-4963a, 74-4964, 74-4964a and 74-49,110 and K.S.A. 2002 Supp. 20-2610a”;

On page 1, in the title, in line 13, after the semicolon, by inserting “benefits; purchase of service credit; appointment of officers and employees by board of regents; employer contribution rates;”; in line 15, after the third semicolon, by inserting “retirement dividend payments;”; in line 16, after “K.S.A.” by inserting “74-4902, 74-4908,”; also in line 16, after “74-4911f,” by inserting “74-4918, 74-4920,”; also in line 16, by striking “and” and inserting a comma; in line 17, after “4927k” by inserting “, 74-4963, 74-4963a, 74-4964, 74-4964a and 74-49,110 and K.S.A. 2002 Supp. 20-2610a”;

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

STEPHEN R. MORRIS  
DAVID ADKINS  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

BILL MCCREARY  
MELVIN NEUFELD  
JOE SHRIVER  
*Conferees on part of House*

On motion of Rep. McCreary, the conference committee report on **HB 2014** was adopted.

On roll call, the vote was: Yeas 101; Nays 16; Present but not voting: 7; Absent or not voting: 1.

Yeas: Aurand, Beggs, Betts, Brunk, Burgess, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Faber, Feuerborn, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Jack, D. Johnson, E. Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Pauls, Phelps, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, B. Sharp, Showalter, Shriver, Shultz, Siegfried, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Barbieri-Lightner, Bethell, Boyer, Burroughs, Edmonds, Howell, Huntington, Kassebaum, Neighbor, Newton, O'Malley, Patterson, S. Sharp, Sloan, Yoder.

Present but not voting: Ballard, Flaharty, Huy, Peterson, Powers, Toelkes, Yonally.

Absent or not voting: Pottorff.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Edmonds, 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 2416**.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Edmonds, the House concurred in Senate amendments to **HB 2416**, An act concerning taxation; relating to amnesty from assessment or payment of penalties and interest on certain unpaid taxes; procedures and requirements of program; definition of doing business in state for sales and compensating tax purposes; amending K.S.A. 79-3702 and repealing the existing section.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 104; Nays 20; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Ballou, Beggs, Bethell, Betts, Boyer, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, Gilbert, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Larkin, Light, Loganbill, M. Long, Loyd, Mason, McCreary, McKinney, Merrick, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Newton, Nichols, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Peterson, Phelps, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder.

Nays: Aurand, Barbieri-Lightner, Brunk, Carter, Freeborn, Gatewood, Goering, Howell, Huebert, Landwehr, P. Long, Mays, McLeland, F. Miller, J. Miller, Neufeld, Novascone, Powell, Schwab, Yonally.

Present but not voting: None.

Absent or not voting: Pottorff.

#### MESSAGE FROM THE SENATE

Announcing adoption of **SCR 1614**.

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

On motion of Rep. Aurand, **SCR 1614**, A concurrent resolution relating to the 2003 regular session of the legislature and providing for an adjournment thereof, was thereupon introduced and adopted.



**INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Aurand, pursuant to House Rule 2307, the following bills were stricken from the calendar:

**HB 2466, HB 2472.**

**REPORT ON ENGROSSED BILLS**

**HB 2125** reported correctly re-engrossed May 3, 2003.

Also, **HB 2423** reported correctly engrossed May 6, 2003.

**HB 2205** reported correctly re-engrossed May 6, 2003.

**REPORT ON ENROLLED BILLS**

**HB 2125; S. Sub. for HB 2400; HB 2461** reported correctly enrolled, properly signed and presented to the governor on May 6, 2003.

**REPORT ON ENROLLED RESOLUTIONS**

**HR 6027, HR 6028, HR 6029, HR 6030** reported correctly enrolled and properly signed on May 6, 2003.

On motion of Rep. Aurand the House adjourned in accordance with **SCR 1614** until 10:00 a.m., Thursday, May 29, 2003.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

