

Journal of the House

FIFTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, April 27, 2005, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 124 members present.
Rep. Showalter was excused on verified illness.

Prayer by Chaplain Chamberlain:

Almighty and loving God, here we are to finish the work to which you have called us. We are amazed again at how things never quite work out the way we had planned. We struggle wondering why others can't see things the way that we see them. Can you really be speaking to both of us? How can we be hearing different things? Or is it O God, that you don't speak to us in that way—that instead you give us a vision of the kind of world you want us to live in and the kind of life you want us to lead and then allow us to use the gifts you've given us to make that happen? Is that where the responsibility lies: with us?

Lord, give us once more an extra measure of your blessing. Open our eyes and our hearts and our minds and fill us again with the awesomeness of the privilege of standing in this chamber of democracy. Let every one of us feel the weight of the responsibility upon our shoulders and the joy of the blessing in our hearts. And may this brief session be marked by a deep desire to know and to do your will in Kansas as it is in heaven. Amen.

The Pledge of Allegiance was led by Rep. B. Sharp.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:
Appropriations: **HB 2534**, **HB 2536**.
Taxation: **HB 2535**.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Bethell, **HCR 5019**, A concurrent resolution recognizing the thousands of Freemasons in the state of Kansas and honoring them for their many contributions to the state throughout its history, was adopted.

Rep. Bethell introduced Larry J. Mersbery, Grand Master of Kansas, and Jim Falkner, CEO of the Masonic Home in Wichita and recognized other members of the Masons who were in the gallery.

There being no objection, the following remarks of Rep. D. Johnson are spread upon the Journal:

Mr. Speaker, it is a high honor and privilege for me to participate in honoring 150 years of Masonry in Kansas. Many of the founding fathers of this country were Masons. Men such as George Washington, Benjamin Franklin, Paul Revere, Joseph Warren and John Hancock were Masons.

Masonry played an important part in the Revolutionary War and an even more important part in the constitutional convention and the debates surrounding the ratification of the Bill of Rights. Many men prominent in Kansas government have been Masons.

Masonry is deeply involved with helping people. It spends more than \$2 million every day in the world, just to make life a little easier. Some of these charities are vast projects, like the crippled children's hospitals and burn institutes built by the Shriners. Masons are committed to helping make the world a better place.

Kansas Masons have committed \$20 million to the Masonic Cancer Research Institute at KU Medical Center.

Today we pause to thank the Masons for all they have done to make Kansas a better place.

MESSAGE FROM THE GOVERNOR

HB 2040, HB 2102, HB 2125, HB 2140, HB 2141, HB 2142, HB 2153, HB 2156, HB 2160, HB 2168, HB 2180, HB 2205, HB 2280, HB 2315, HB 2347, HB 2409, HB 2461 approved on April 4, 2005.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2014**, An act concerning the Kansas water authority; amending K.S.A. 2004 Supp. 74-2622 and repealing the existing section; also repealing K.S.A. 2004 Supp. 74-2622a, was received and read.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **HB 2014**.

For its continued prosperity, our state requires an adequate supply of clean water. Every business, farm and home in the state depends on water, yet our supplies are shrinking and our needs are growing. To meet this challenge, we depend on the Kansas Water Authority to help us manage our water supply and plan for the future.

The Kansas Water Authority has worked well for 24 years, acting in the best interests of Kansans, in a non-partisan, non-political way. There is no apparent reason to change its procedures, and certainly no evidence the changes proposed in this bill will improve the functioning of the Authority.

Indeed, the proposed changes will damage the authority. This bill goes much further than simply adding limits on ex officio members' participation in the authority. It reduces these members to a peripheral role, one where they are merely to "act as a resource and support for other members."

If we are to meet the challenges facing our water supply, we must have all voices be heard and need everyone to have a seat at the table. Because House Bill 2014 makes it more difficult to meet our state's challenges, I must veto it.

KATHLEEN SEBELIUS
Governor

Dated: April 4, 2005

MESSAGES FROM THE GOVERNOR

Sub. HB 2003, HB 2103, HB 2138, HB 2139, HB 2152, HB 2265 approved on April 6, 2005.

Also, **HB 2155, HB 2232, HB 2279, HB 2288, HB 2326, HB 2336** approved on April 7, 2005.

Also, **HB 2082, HB 2222, HB 2341, HB 2364, HB 2407, HB 2478** approved on April 8, 2005.

Also, **HB 2072, HB 2077, HB 2264, HB 2310, HB 2466** approved on April 12, 2005.

Also, **Sub. HB 2087; S. Sub. for HB 2144; Sub. HB 2276; HB 2448; S. Sub. for HB 2501** approved on April 13, 2005.

Also, **HB 2018, HB 2058; S. Sub. for HB 2172; HB 2203, HB 2268, HB 2301, HB 2357, HB 2380, HB 2387, HB 2406** approved on April 15, 2005.

Also, **HB 2247** delivered to the Secretary of State unsigned on April 15, 2005, and will become law without the Governor's signature.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2503**, An act concerning abortion clinics; providing for regulation, licensing and standards for the operation thereof; providing penalties for violations and authorizing injunctive actions, was received and read.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **HB 2503**.

As governor, nothing is more important to me than the safety and good health of our citizens. Kansans must be assured when they receive care in a hospital or clinic that their providers meet high standards of safety and responsibility. But these standards should be written and enforced by doctors, not politicians.

I will continue to work closely with the Kansas Medical Society and the Board of Healing Arts in developing standards that will protect the well being of every Kansan who chooses the services of any surgical clinic, including those that would be covered in this bill. I am confident that strong standards, offering real protection across all procedures, will be adopted by the Board in the near future.

Once again in 2005, the Legislature has chosen pure politics over good policy, has rejected uniform standards for all procedures, and has instead chosen to regulate only one procedure—abortion. As the number of outpatient surgeries grow rapidly in Kansas and throughout the country, it is wise to update our regulatory oversight to ensure the best possible treatment for all patients. Unfortunately, HB 2503 falls far short of meeting this basic standard of care. I have stated repeatedly that I will sign this law when it includes all surgical procedures and all surgical centers to ensure the safety of all Kansans.

For these reasons, I veto **HB 2503**. I strongly urge the Legislature, upon its return, to endorse the appropriate clinic standards that the Board of Healing Arts is currently putting into place. We should encourage physicians and other health care professionals to work through the Board of Healing Arts for the speedy development of standards that apply to all surgical clinics and protect the health of every patient. There is no justifiable reason to do less.

KATHLEEN SEBELIUS
Governor

Dated: April 15, 2005

MESSAGES FROM THE GOVERNOR

HB 2045, HB 2053, HB 2083, HB 2124, HB 2128, HB 2263, HB 2309, HB 2331, HB 2385, HB 2390 approved on April 18, 2005.

MESSAGE FROM THE GOVERNOR

April 19, 2005

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Order No. 2005-03 for your information.

EXECUTIVE ORDER No. 2005-03
Establishing the National Incident Management System

KATHLEEN SEBELIUS
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

COMMUNICATIONS FROM STATE OFFICERS

From William R. Seck, Colonel, Superintendent, Kansas Highway Patrol, 2004 Annual Report, which is provided online at www.kansashighwaypatrol.org.

From Robert E. Hemenway, Chancellor, The University of Kansas, Annual Report 2004, A Common Vision.

From Howard Schwartz, Judicial Administrator, Supreme Court of Kansas, in accordance with K.S.A. Supp. 5-506, 2004 Annual Dispute Resolution Report.

From Kansas Forest Service, in accordance with K.S.A. 76-425, 2004 Annual Report.
 From Barbara Schoof Conant, Director of Communications, Kansas Department on Aging, 2004 KDOA Annual Report which can be found on the KDOA website at <http://www.agingkansas.org/index.htm>.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

MESSAGE FROM THE SENATE

The Senate concurs in House amendments to **H. Sub. for SB 195**.

The Senate accedes to the request of the House for a conference on **SB 216** and has appointed Senators Barnett, V. Schmidt and Haley as second conferees on the part of the Senate.

The Senate adopts conference committee report on **HB 2116**.

The Senate adopts conference committee report on **HB 2338**.

The President announced the appointment of Senators Huelskamp, O'Connor and Francisco as members of the conference committee on **SB 216** to replace Senators Barnett, V. Schmidt and Haley.

Announcing rejection of **S. Sub. for HB 2084**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6034

By Representatives Larkin, Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder and Yonally

A RESOLUTION in memory of Justice Robert Gernon.

WHEREAS, Kansas Supreme Court Justice Robert Gernon died March 30 from complications with cancer. He was 61 years of age; and

WHEREAS, He was appointed to the Kansas Court of Appeals in 1988 and to the Kansas Supreme Court in 2003. He was with the majority in the case declaring the state's death penalty unconstitutional and wrote a controversial opinion regarding whether a transsexual could be considered a woman in a marriage, an opinion noted for its blending of medical science and law; and

WHEREAS, Justice Gernon was heavily involved in mentoring young attorneys. He also organized continuing legal seminars for veteran attorneys and helped organize the Kansas Bar Association's annual review of law. Appointed to the supreme court by Governor Graves, Justice Gernon was praised by Governor Sebelius saying, "His fairness and integrity made him a valued member of the Kansas Supreme Court"; and

WHEREAS, Justice Gernon was born in Sabetha and graduated from the University of Kansas with a degree in business administration. He obtained his law degree from Washburn University in 1969. He worked as a probation officer in Shawnee County before graduating from law school and later worked as a private attorney and assistant district attorney. He was appointed as a district judge in 1979 on the same court his father had served; and

WHEREAS, He is survived by two daughters, Rebecca Gernon Wilson and Kristin Gernon, both of whom were with him at the time of his death: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we extend our deepest sympathy to the family of Justice Gernon and thank him for the many years of devoted service he gave to the bench and bar of this state; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Dr. Rebecca Gernon Wilson, 9 Village Rock Lane #12, Natick, MA. 01760; Kristin Gernon, 255 Huguenot St. #1610, New Rochelle, N.Y. 10801 and Sharon Gernon, 1431 Applegate Court, Lawrence, KS 66049.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 272** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL No. 272," as follows:

"HOUSE Substitute for SENATE BILL No. 272

By Committee on Appropriations

"AN ACT making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008, and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2004 Supp. 82a-953a and section 187 of 2005 Senate Bill No. 225 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 82a-953a, as amended by section 186 of 2005 Senate Bill No. 225."; and the substitute bill be passed.

(**H. Sub. for SB 272** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 273**, as amended by Senate Committee of the Whole, be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 273," as follows:

"HOUSE Substitute for SENATE BILL No. 273

By Committee on Appropriations

"AN ACT concerning the effective date of 2005 Senate Bill No. 225; amending section 198 of 2005 Senate Bill No. 225 and repealing the existing section."; and the substitute bill be passed.

(**H. Sub. for SB 273** was thereupon introduced and read by title.)

Committee on **Economic Development** recommends **SB 304**, as amended by Senate Committee, be amended on page 2, by striking all in line 21; in line 22, by striking all before the second "or"; in line 25, after the period by inserting "The authority may additionally issue bonds for the purpose of financing a hall of fame, museum or tourist destination of national significance, as determined by the secretary of commerce."; and the bill be passed as amended.

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

AFTERNOON SESSION

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

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6035

By Representatives Sawyer, Brunk, DeCastro, Dillmore, Faust-Goudeau, Flaharty, Garcia, Goico, Grange, Huebert, Huy, E. Johnson, Kelley, Kelsey, Landwehr, Loganbill, M. Miller, McCreary, McKinney, McLeland, Myers, Novascone, Pauls, Pottorff, Powers, Showalter, Shultz, Swenson, Thull, Treaster, Ward and Watkins

A RESOLUTION congratulating and commending the Wichita State University women's bowling team for winning the 2005 intercollegiate bowling national championship.

WHEREAS, The Wichita State University (WSU) women's bowling team won the 2005 intercollegiate national championship in Rockford, Illinois, on April 20-24, 2005; and

WHEREAS, WSU led after 32 Baker games on day one. On day two the team defeated Erie Community College 4 games to 1 in a best of 7 series, McKendree College 4.5 games to 2.5 and Morehead State University 4 games to 2 to advance to the semi-finals. The team defeated Western Illinois 4 games to 0 in the semi-finals and West Texas A&M 2 games to 0 in the finals to win the national championship; and

WHEREAS, The WSU women's team has won seven intercollegiate bowling national championships: 1975, 1977, 1978, 1986, 1990, 1994 and 2005, and has advanced to the national tournament a record 30 times; and

WHEREAS, Head Coach Gordon Vadakin has coached the team since 1978, leading them to the intercollegiate bowling national championship tournament 27 times and has coached the team to five national titles; and

WHEREAS, Women's Coach Mark Lewis and Assistant Women's Coach Kristal Scott directly coached the 2005 WSU women's team to the national championship at Rockford, Illinois; and

WHEREAS, WSU Senior Anita Manns was named to the All-American First Team and MVP of the All-American First Team, Player of the Year in Women's Collegiate Bowling, and MVP of the Intercollegiate Bowling Championships Tournament: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend the Wichita State University women's bowling team for winning the 2005 intercollegiate bowling national championship tournament; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Head Coach Gordon Vadakin, Assistant Head Coach Mark Lewis, Assistant Women's Coach Kristal Scott and team members Chelsie Bahr, Clara Guerrero, Caroline Lagrange, Diana Leal, Emily Maier, Anita Manns, Ruth Papa, Olivia Sandham, Cathy Westberg, Felicia Wong, Samantha Wong, and Jennifer Wright, all in care of Wichita State University, 1845 N. Fairmount, Wichita, KS 67260-0056.

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, to suspend the rules for the purpose of considering **HB 2016, HB 2109, HB 2116, HB 2253, HB 2262, HB 2338, HB 2386; SB 102, SB 142, SB 151, SB 181, SB 215**, Rep. McKinney requested the question be divided and that **SB 102** and **SB 181** be considered separately. The motion prevailed.

The question reverted back to the motion to suspend the rules for the purpose of considering **HB 2016, HB 2109, HB 2116, HB 2253, HB 2262, HB 2338, HB 2386; SB 142, SB 151, SB 215**. The motion prevailed.

On motion to suspend the rules for the purpose of considering **SB 102**, the motion prevailed.

On motion to suspend the rules for the purpose of considering **SB 181**, the motion prevailed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 142**, submits the following report:

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

On page 1, in line 40, after "writing" by inserting "on the ballot envelope";

On page 3, in line 13, after "designation" by inserting "on the ballot envelope";

On page 4, following line 35, by inserting the following:

“Sec. 3. K.S.A. 25-4401 is hereby amended to read as follows: 25-4401. As used in this act unless the context otherwise requires:

(a) “Automatic tabulating equipment” includes apparatus necessary to examine automatically and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

~~—(b) “Ballot card” means a ballot which is voted by the process of punching.~~

~~—(c) “Ballot labels” means the cards, papers, booklet, pages or other material containing the names of offices and candidates and statements of measures to be voted on.~~

~~—(d) “Ballot” may include ballot cards, ballot labels and paper ballots an electronic display or printed document containing the offices and questions on which voters in a specified voting area are eligible to vote.~~

~~(e) (b) “Counting location” means the location in the county selected by the county election officer for the automatic processing or counting, or both, of ballots.~~

~~(f) (c) “Electronic or electromechanical voting system” means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment including a direct recording electronic system.~~

~~(d) “Direct recording electronic system” means a system that records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter, that processes data by means of a computer program, that records voting data and ballot images in memory components, that produces a tabulation of the voting data stored in a removable memory component and as printed copy, and that may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from precincts at the central location.~~

~~(g) “Marking device” means an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter which will enable the ballot to be tabulated by means of automatic tabulating equipment. The hole made by such marking device may be in the form of a round dot, a rectangle, a square or any other shape that will clearly indicate the intent of the voter.~~

Sec. 4. K.S.A. 25-4403 is hereby amended to read as follows: 25-4403. (a) The board of county commissioners and the county election officer of any county may provide an electronic or electromechanical voting system to be used at voting places in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

(b) ~~When the board of county commissioners of any county is presented with a petition requesting a vote on the proposition of using electronic or electromechanical voting systems in such county, signed by electors equal in number to not less than ten percent of the votes cast for secretary of state in the county at the last preceding general election at which the secretary of state was elected, such board of county commissioners shall submit the proposition to the voters of such county at the next succeeding state primary or general election. If a majority of the votes cast on the proposition shall be in favor thereof the board of county commissioners and the county election officer shall provide such a system to be used at voting places at national, state, county, township, city and school primary and general elections and in question submitted elections.~~

~~—(c) The board of county commissioners of any county in which the board of county commissioners and county election officer have determined that an electronic or electromechanical voting system shall be used or in which a proposition to use electronic or electromechanical systems has been adopted may issue bonds, without an election, to finance and pay for purchase, lease or rental of such a system.~~

~~(d) (c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any electronic or electromechanical system herein authorized and approved for use in the state and may use such a system in all or any part of the voting areas within the county or in combination with an optical scanning voting system or with regular paper ballots. Whenever the secretary of state rescinds approval of any voting system, the board of county commissioners and the county election officer shall abandon such system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, such abandonment shall be permanent.~~

Sec. 5. K.S.A. 25-4404 is hereby amended to read as follows: 25-4404. The secretary of state shall examine and approve the kinds or makes of electronic or electromechanical voting systems, *including operating systems, firmware and software*, and no kind or make of such system shall be used at any election unless and until it ~~received approval~~ *receives certification* by the secretary of state and a statement thereof is filed in the office of the secretary of state.

Sec. 6. K.S.A. 25-4405 is hereby amended to read as follows: 25-4405. (a) Any person, firm or corporation desiring to sell any kind or make of electronic or electromechanical voting system to political subdivisions in Kansas may in writing request the secretary of state to examine the kind or make of the system which it desires to sell and shall accompany the request with a certified check in the sum of \$250 payable to the secretary of state to be used to defray a portion of the costs of such examination, and shall furnish at its own expense such system to the secretary of state ~~at the capitol in the city of Topeka, Kansas, for use by the secretary~~ in examining such ~~machine system~~. The secretary of state may require such person, firm or corporation to furnish a competent person to explain the system and demonstrate by the operation of such system that it ~~will do all the things required by article 44 of chapter 25 of Kansas Statutes Annotated and amendments thereto and can be safely used~~ *complies with state and federal laws*. The secretary of state may employ a competent person or persons to assist in the examination and to advise the secretary as to the sufficiency of such machine and to pay such persons reasonable compensation therefor. The costs of employment and any other costs associated with the approval of such system shall be paid in advance by the applicant.

(b) The secretary of state may require a review of any theretofore approved electronic or electromechanical voting system and the equipment and operation thereof. Such review shall be commenced by the secretary of state giving written notice thereof to the person, firm or corporation which sought approval of the system and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such system or equipment thereof. Such notice shall fix a time and place of hearing at which those persons wishing to be heard may appear and give oral or written testimony and explanation of the system, its equipment and operation and experience had therewith. After such hearing date and after such review as the secretary of state deems appropriate, the secretary of state may renew approval of the system, require changes therein for continued approval thereof or rescind approval previously given on either a conditioned or permanent basis.

(c) The secretary of state may appoint persons to assist county election officers or county commissioners in the testing of any electronic or electromechanical voting system and its equipment or the programs of such system.

Sec. 7. K.S.A. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide ~~facilities~~ for voting for the candidates for nomination or election of ~~at least seven different~~ *all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto*;

(b) shall permit a voter to vote for any independent candidate for any office;

(c) shall provide for voting on constitutional amendments or other questions submitted;

(d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates of the political party with which the voter is affiliated or, if not affiliated, according to the voter's declaration when applying to vote;

(e) shall afford the voter an opportunity to vote for any or all candidates for an office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office;

(f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one ~~mark or punch action~~;

(g) shall provide facilities for "write-in" votes;

(h) shall provide for voting in absolute secrecy, except as to persons ~~entitled to assistance~~ *who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language*;

(i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast; ~~and~~

(j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; *and*

(k) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

Sec. 8. K.S.A. 25-4407 is hereby amended to read as follows: 25-4407. (a) When ~~a county has voted to use electronic or electromechanical voting systems or when~~ a board of commissioners and county election officer have determined that such a voting system shall be used in a county, the board of county commissioners and the county election officer shall provide such number of units as shall be necessary to equip voting places for the use of voters. The board of county commissioners and the county election officer may purchase systems with payment by installments, may rent or lease systems or may lease machines with option to purchase with lease payments to be applied on the purchase price. Contracts for purchase may be for terms not exceeding ~~ten~~ 10 years, and the provisions of article 11 of chapter 10 of the Kansas Statutes Annotated and K.S.A. 79-2925 to 79-2940, inclusive, and amendments thereto, shall have no application to such contracts of purchase and lease or rental agreements, except that where payment is to be made from the general fund the budget shall provide for the raising of the necessary yearly amount to make installment or rental payments. Where the authorized maximum levy for the general fund is insufficient for all other yearly expenses chargeable against such fund and to pay installments or rentals on the voting systems, or where the aggregate limit for taxes is such that a sufficient tax for the general fund cannot be levied to pay all other yearly expenses chargeable against such fund and to pay installments or rentals on the systems, the board of county commissioners may levy a tax of sufficient millage to provide revenue to pay such installments or rentals and 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 and such levy shall not be within or limited by any aggregate limit of tax for such county.

(b) For the use of voting systems the board of county commissioners may pay the same out of the general fund of such county, or issue time warrants bearing not to exceed five percent interest and payable by not more than three annual tax levies of not to exceed two mills which shall not be within or limited by any aggregate tax levy applying to such county or issue general obligation bonds of such county, such bonds not to be limited by any bonded debt limit and such bonds shall not be considered in determining the bonded debt of the county for the purpose of issuing bonds for other purposes.

(c) No tax shall be levied under this section, nor shall any moneys be paid from any fund under authority of this section for any contract to purchase, lease or rent any electronic or electromechanical voting system or equipment thereof, if approval of such system or equipment has been rescinded by the secretary of state.

(d) The secretary of state may purchase, rent or lease voting equipment only for the purpose of providing such equipment to counties pursuant to the provisions of the help America vote act of 2002, which requires each polling place to be equipped with at least one voting device which is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

Sec. 9. K.S.A. 25-4409 is hereby amended to read as follows: 25-4409. (a) In any voting area where electronic or electromechanical voting systems are used, the county election officer shall provide an adequate number of units of the systems to allow all voters expected by the county election officer to vote at such voting place.

(b) The ballot information, ~~whether placed on the ballot or on the marking device,~~ shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or in a number of separate pages. ~~Ballots for all questions must be provided in the same manner and where ballots are placed in a marking device, they must be arranged on or in the marking device in the places provided for such purpose. Voting squares or ovals may be before or after the names of~~

candidates and statements of questions, and shall be of such size as is compatible with the type of system used. ~~Ballots and ballot labels shall be printed~~ *Ballot information shall be displayed* in as plain clear type and size as the ballot spaces will reasonably permit. ~~Fear-off stubs shall be of a size suitable for the ballots or ballot cards used and for the requirements of the marking device. Where candidate rotation is used, each type of ballot within a voting area shall be of the same rotation series. The ballots or ballot cards may contain special printed marks and holes as required for proper positioning and reading of the ballots by the automatic tabulating equipment. Where candidate rotation is used, the voting equipment shall be capable of meeting the requirements otherwise provided in law.~~

(c) A separate write-in ballot, which may be in the form of a paper ballot, ~~card or envelope~~ in which the elector places his or her ballot card after voting, shall be provided where necessary to permit electors to write in the names of persons whose names are not on the ballot.

(d) ~~The county election officer shall cause the marking devices to be put in order, set, adjusted and made ready for voting when delivered to the election precincts. Before the opening of the polls the election judges shall compare the ballots or ballot labels with the sample ballots furnished, and see that the names, numbers and letters ballot information thereon agree agrees and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.~~

Sec. 10. K.S.A. 25-4410 is hereby amended to read as follows: 25-4410. (a) Insofar as applicable, the procedures provided for voting on paper ballots shall apply to electronic and electromechanical voting systems.

(b) The county election officer shall provide for each voting place sample ~~ballot cards and ballot labels~~ *ballots* which shall be exact copies of the official ballots for the particular election. Such sample ballot cards and labels shall be arranged in the form of a diagram showing the front of the marking device as it will appear after the ballots are arranged therein for voting on election day. Such sample ballot cards and labels shall be posted near the entrance of voting booths and shall be there open to for public inspection during the hours that the polls are open on election day.

(c) ~~In addition to the instructions printed on the ballot or ballot labels, instructions to voters shall be posted in each voting booth or placed on the marking device. Each voter shall be instructed how to operate the voting device before such voter enters the voting booth. When a voter is handed a ballot or ballot card, such voter shall be instructed to use only the marking device provided for punching or slotting the cards and to not mark the ballot or ballot card in any other way except for write-ins. The voter shall also be instructed to place his or her ballots in an envelope or other container after voting, in order that no card upon which a choice is indicated is exposed.~~

~~(d) For the instruction of voters on election day, there shall be provided for each voting place a mechanical model of the voting device. Such model shall be located in some place accessible to the voters. Each voter so desiring, before entering the voting booth, shall be instructed regarding the use of such model and shall be given an opportunity to use the model. The voter's attention may also be called to the ballot labels so that the voter may become familiar with the location of the questions submitted and the names of the offices and candidates.~~

~~(e) Each voter shall be instructed how to operate the voting device before such voter enters the voting booth. In case any elector voter after entering the voting booth shall ask for further instruction concerning the manner of voting, two (2) judges election board members of opposite political parties shall give such instructions to such elector, but no judge or other election officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question or proposition. After receiving such instructions, such elector shall vote as in the case of an unassisted voter.~~

~~(f) If a voter spoils or defaces a ballot card or marks it erroneously, such voter shall return the card with stub folded so as not to disclose any choices that such voter has made and receive another. The election judge shall immediately cancel the defective ballot card by writing on the back of the ballot card the word "SPOILED" in ink and without detaching the ballot stub, shall place the ballot in the container for voided ballots in a manner that~~

does not expose the choices of the voter. The voter shall only be allowed to follow this procedure three (3) times at any election:

~~(g) Where ballot cards are used, after the voter has marked his or her ballot card, such voter shall place it inside the envelope provided for this purpose and return it to the judge. The judge shall remove the ballot stub and deposit such stub and the envelope with the ballot card inside in the ballot box.~~

Sec. 11. K.S.A. 25-4411 is hereby amended to read as follows: 25-4411. (a) The vote tabulation equipment may be located at any place within the county approved by the county election officer.

(b) Within five ~~(5)~~ days prior to the date of the election, the county election officer shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all ~~measures~~ *questions submitted*. Public notice of the time and place of the test shall be given at least ~~forty-eight (48)~~ 48 hours prior thereto by publication once in a newspaper of general circulation in the county or city where such equipment is to be used. The test shall be ~~observed by at least two (2) election inspectors, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public.~~ The test shall be conducted by processing a preaudited group of ballots ~~and punched or marked as marked~~ to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. ~~The test shall be repeated immediately before the start of the official count of the ballots, and at the conclusion of the official count in the same manner as set forth above.~~ After the completion of the count, the programs used and ballots shall be sealed, retained and disposed of in the same manner as paper ballots.

Sec. 12. K.S.A. 25-4412 is hereby amended to read as follows: 25-4412. (a) In voting areas where electronic or electromechanical voting systems are used, as soon as the polls are closed, the ~~election supervising~~ judge shall secure the ~~marking devices against voting equipment to prevent~~ further voting. The judge shall ~~thereafter open the ballot box and~~ count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots ~~does not exceed~~ *equals* the number of voters shown on the poll book. If there is ~~an excess a discrepancy~~, this fact shall be reported in writing to the county election officer with the reasons therefor if known. ~~The total number of voters shall be entered on the tally sheets.~~ The write-in votes shall then be counted by the ~~election supervising~~ judge and clerks. ~~If ballot cards are used and separate write-in ballots or envelopes for recording write-in votes are used, all ballots or envelopes on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the ballot card of the voter. The election judge shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and it shall be returned to the counting location in an envelope marked "defective ballots" and such invalid votes shall not be counted. So far as applicable, provisions relating to defective paper ballots shall apply.~~

(b) The ~~election supervising~~ judge shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered forthwith by two election judges who shall not be of the same political party, to the counting location together with the *provisional*, unused, void and defective ballots and returns.

(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election ~~officials~~ *board workers* who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. ~~If any ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot card shall be made of a defective ballot which shall not include the invalid~~

votes. All duplicate ballots or ballot cards shall be clearly labeled "duplicate," shall bear a serial number which shall be recorded on the damaged or defective ballot or ballot card and shall be counted in lieu of the damaged or defective ballot.

— If any ballot card, of the type where offices and questions are printed directly on the card, is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy may be made of the damaged ballot card, in the presence of witnesses and in the manner set forth above, or the valid votes on such ballot card may be manually counted at the counting center by at least two election officials in the manner which is best suited to the system used. If any paper ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, such ballot shall be manually counted at the counting center. The totals for all such ballots or ballot cards manually counted shall be added to the totals for the respective precincts or election districts.

(d) Advance voting ballots may be counted by the automatic tabulating equipment if they have been ~~punched or~~ marked in a manner which will enable them to be properly counted by such equipment.

(e) The return printed by the automatic tabulating equipment, to which has been added the return of write-in and advance voting votes and manually counted votes, shall constitute the official return of each precinct or election district. Upon completion of the count the returns shall be open to the public. A copy of the returns shall be posted at the central counting place or at the office of the election officer in lieu of the posting of returns at the individual precincts.

(f) If for any reason it becomes impracticable to count all or a part of the ballots with tabulation equipment, the county election officer may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

Sec. 13. K.S.A. 25-4413 is hereby amended to read as follows: 25-4413. In the case of a recount, the ballots ~~or ballot cards~~ shall be recounted in the manner provided by K.S.A. 25-4412 ~~and amendments thereto~~.

Sec. 14. K.S.A. 25-4414 is hereby amended to read as follows: 25-4414. Electronic or electromechanical voting system fraud is: (a) Being in unlawful or unauthorized possession of ~~ballot cards, ballot labels or voting equipment~~, computer programs, *operating systems, firmware, software or ballots*; or

(b) intentionally tampering with, altering, disarranging, defacing, impairing or destroying any electronic or electromechanical system or component part thereof, ~~any ballot, ballot card or ballot label or any ballot~~ used by such systems.

Electronic or electromechanical voting system fraud is a severity level 10, nonperson felony.

New Sec. 15. The secretary of state may adopt rules and regulations:

(a) For the use of electronic and electromechanical voting systems to count votes under the election laws of this state; and

(b) necessary for the administration of this act.

New Sec. 16. K.S.A. 25-4401 through 25-4414, inclusive, and amendments thereto, and sections 15 and 16, and amendments thereto, shall be known and may be cited as the electronic and electromechanical voting systems act.

Sec. 17. K.S.A. 25-4601 is hereby amended to read as follows: 25-4601. As used in this act unless the context otherwise requires:

(a) "Ballot" means a paper ballot ~~of at least three inches in width and seven inches in depth~~ on which candidates' names or questions are printed and ~~are~~ *which is* designed to receive opaque marks which can be detected by optical scanning equipment and which ~~are~~ is capable of being counted manually.

(b) "Counting location" means ~~the location or locations in the county selected by the county election officer for the automatic processing or counting, or both, of ballots.~~

— (c) "Optical scanning equipment" means apparatus designed to examine and detect opaque marks on ballots which represent votes and count and tabulate those votes by electronic methods.

~~(d)~~ (c) "System" means an optical scanning system of automatically counting and tabulating ballots with optical scanning equipment.

(d) "Precinct count voting system" means an optical scanning voting system that tabulates ballots at the polling place.

(e) "Central count voting system" means an optical scanning voting system that tabulates ballots from multiple precincts at a central location. Voted ballots are placed into secure storage at the polling place and transported to a central counting location.

Sec. 18. K.S.A. 25-4602 is hereby amended to read as follows: 25-4602. (a) The board of county commissioners and the county election officer of any county may provide for use of a system using optical scanning equipment to be used in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

(b) ~~When the board of county commissioners of any county is presented with a petition requesting a vote on the proposition of using a system using optical scanning equipment in such county, signed by electors equal in number to not less than 10% of the votes cast for secretary of state in the county at the last preceding general election at which the secretary of state was elected, such board of county commissioners shall submit the proposition to the voters of such county at the next succeeding state primary or general election. If a majority of the votes cast on the proposition are in favor of the proposition, the board of county commissioners and the county election officer shall provide such a system to be used at national, state, county, township, city and school primary and general elections and in question submitted elections.~~

~~—(c) The board of county commissioners of any county in which the board and county election officer have determined that a system using optical scanning equipment shall be used or in which a proposition to use a system that uses optical scanning equipment has been adopted may issue bonds, without an election, to finance and pay for purchase, lease or rental of such a system and optical scanning equipment.~~

~~(c)~~ (c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any system using optical scanning equipment authorized under this act and approved by the secretary of state for use in the state and may use such a system in all or any part of the voting areas within the county or in combination with an *electronic or electromechanical voting system or with* regular paper ballots. Whenever the secretary of state rescinds approval of any such system or optical scanning equipment, the board of county commissioners and the county election officer shall abandon such system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, such abandonment shall be permanent.

Sec. 19. K.S.A. 25-4603 is hereby amended to read as follows: 25-4603. The secretary of state shall examine and approve the kinds or makes of systems using optical scanning equipment, *including operating systems, firmware and software*, and no kind or make of such system shall be used at any election unless and until it receives ~~approval~~ *certification* by the secretary of state and a statement thereof is filed in the office of the secretary of state.

Sec. 20. K.S.A. 25-4604 is hereby amended to read as follows: 25-4604. (a) Any person, firm or corporation desiring to sell any kind or make of system using optical scanning equipment to counties in this state may make a request in writing of the secretary of state to examine the kind or make of the system using optical scanning equipment which it desires to sell and shall accompany the request with a certified check in the amount of \$250 payable to the secretary of state, and shall furnish at its own expense such optical scanning equipment and other items necessary for operation of such system to the secretary of state ~~at the capitol in the city of Topeka, Kansas, for use by the secretary~~ in examining such equipment and system. The secretary of state may require such person, firm or corporation to furnish a competent person to explain the system and demonstrate by the operation of such system ~~that it will do all the things required by this act and applicable Kansas Statutes Annotated, and amendments thereto, and can be safely used~~ *such system complies with state and federal laws*. The secretary of state may employ a competent person or persons to assist in the examination and to advise the secretary as to the sufficiency of such system and equipment and to pay such persons reasonable compensation therefor. The costs of employment and other costs associated with the approval of such system shall be paid ~~in advance~~ by the applicant.

(b) The secretary of state may require a review of any theretofore approved system using optical scanning equipment and the operation thereof. Such review shall be commenced by the secretary of state giving written notice to the person, firm or corporation which sought approval of the system and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such system or equipment. Such notice shall fix a time and place of hearing at which those persons wishing to be heard may appear and give oral or written testimony and explanation of the system, its optical scanning equipment and operation and experience had therewith. After such hearing date and after such review as the secretary of state deems appropriate, the secretary of state may renew approval of the system and such equipment, require changes therein for continued approval thereof or rescind approval previously given on either a conditioned or permanent basis.

(c) The secretary of state may appoint persons to assist county election officers or county commissioners in the testing of any system using optical scanning equipment and the programs of the system.

Sec. 21. K.S.A. 25-4607 is hereby amended to read as follows: 25-4607. The ballot information shall be in the order of arrangement provided for in article 6, chapter 25 of Kansas Statutes Annotated for official ballots. Such information may be printed on both sides of one ballot or on more than one ballot. Nothing in this act shall be construed as prohibiting the use of multiple ballots when the information for any election exceeds the capacity of a single ballot. Voting squares or ovals may be placed before or after the names of candidates and statements of questions or on a separate paper corresponding to the ballot upon which the names of candidates and statements of questions appear. Voting squares or ovals shall be of such size as is compatible with the system used. Ballots shall be printed on paper and with ink compatible with the system used and the information printed in as plain clear type and size as the ballot spaces permit. ~~At the bottom of~~ On each ballot shall be printed a box, which shall be placed on the ballot in such a manner so as not to interfere with the scanning of the ballot.

Sec. 22. K.S.A. 25-4609 is hereby amended to read as follows: 25-4609. (a) ~~When a voter is handed a ballot, such~~ Each voter shall be instructed *how* to mark the ballot as directed, ~~and to not mark the ballot in any other way~~ before such voter enters the voting booth. The voter shall also be instructed to place such person's ballot or ballots in a ballot sleeve or other container after voting, in order that no ballot upon which a choice is indicated is votes are exposed.

(b) In case any elector after entering the voting booth asks for further instruction concerning the manner of voting, two ~~judges~~ election board members of opposite political parties shall give such instruction to such elector, but no ~~judge~~ election board member or other election officer or person assisting an elector shall in any manner request, suggest or seek to persuade or induce any elector to vote for or against any candidate, question or ticket. ~~After receiving such instruction, such elector shall vote as in the case of an unassisted voter.~~

(c) After the voter has marked the ballot or ballots, the voter shall place it or them in the ballot sleeve provided for this purpose and return it to the judge. The judge shall verify the unique mark on the ballot and deposit the ballot in the ballot box.

Sec. 23. K.S.A. 25-4610 is hereby amended to read as follows: 25-4610. (a) The optical scanning equipment may be located at any place within the county approved by the county election officer.

(b) Within five days prior to the date of the election, the county election officer shall have the optical scanning equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all questions submitted. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in a newspaper of general circulation in the county where such equipment is to be used. The test shall be observed by at least two election inspectors, ~~who shall not be of the same political party, and shall be~~ open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots marked as to record a predetermined number of valid votes for each candidate and on each question submitted, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the optical scanning equipment to reject such votes. If any error is detected, the cause therefor shall be ascer-

tained and corrected and an errorless count shall be made before the optical scanning equipment is approved. ~~The test shall be repeated immediately before the start of the official count of the ballots, and at the conclusion of the official count in the same manner as set forth above. After~~ *The test shall be repeated after the completion of the count, the. The programs used and ballots and ballot stubs and ballots shall be sealed, retained and disposed of in the same manner as paper ballots.*

Sec. 24. K.S.A. 25-4611 is hereby amended to read as follows: 25-4611. (a) As soon as the polls are closed, ~~an election~~ *the supervising* judge shall open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots ~~does not exceed~~ *equals* the number of voters shown on the poll book. If there is ~~an excess a discrepancy~~, this fact shall be reported in writing to the county election officer with the reasons therefor if known. ~~The total number of voters shall be entered on the tally sheets.~~

(b) The election judge shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered by two election ~~judges~~ *board members* who shall not be of the same political party, to the counting location together with the *provisional*, unused, void and defective ballots and returns.

(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election ~~judges~~ *board workers* who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the optical scanning equipment, it shall be counted manually.

(d) Advance voting ballots may be counted by the optical scanning equipment if they have been marked in a manner which will enable them to be properly counted by such equipment.

(e) The return printed by the optical scanning equipment, to which has been added the return of write-in and advance voting votes and manually counted votes, shall constitute the official return of each precinct or voting area. Upon completion of the count the returns shall be open to the public. A copy of the returns shall be posted at the office of the county election officer.

(f) If for any reason it becomes impracticable to count all or a part of the ballots with optical scanning equipment, the county election officer may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

Sec. 25. K.S.A. 25-4612 is hereby amended to read as follows: 25-4612. Optical scanning equipment fraud is:

(a) Being in unlawful or unauthorized possession of ballots ~~or programs~~, *optical scanning equipment, computer programs, operating systems, firmware or software*; or

(b) intentionally tampering with, altering, disarranging, defacing, impairing or destroying any optical scanning equipment or component part thereof, or any ballot, *operating system, firmware or software* used by a system.

Optical scanning equipment fraud is a severity level 10, nonperson felony.

Sec. 26. K.S.A. 25-4613 is hereby amended to read as follows: 25-4613. Optical scanning equipment and systems using optical scanning equipment approved by the secretary of state:

(a) Shall be capable of being tested to ascertain that the equipment will correctly count votes cast for all offices and on all questions submitted; and

(b) shall be capable of printing in legible form, reports and summaries of the election results as required by articles 30 and 31 of chapter 25 of Kansas Statutes Annotated; and

(c) shall be capable of tabulating votes for candidates for nomination or election of ~~at least seven different~~ *all* political parties *officially recognized pursuant to K.S.A. 25-302a, and amendments thereto*; and

(d) shall be capable of tabulating votes for any independent candidate of any office; and

(e) shall be capable of tabulating votes for constitutional amendments or other questions submitted; and

(f) shall be capable of tabulating the number of "write-in" votes cast for any office; ~~and~~

(g) shall not count any votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast;

(h) shall provide notification when the voter has cast more votes for such office or upon such question than the voter is entitled to cast; and

(i) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

New Sec. 27. The secretary of state may adopt rules and regulations:

(a) For the use of optical scanning systems to count votes under the election laws of this state; and

(b) necessary for the administration of this act.

New Sec. 28. K.S.A. 25-4601 through 25-4613, inclusive, and amendments thereto, and sections 27 and 28, and amendments thereto, shall be known and may be cited as the optical scanning voting systems act.

Sec. 29. K.S.A. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; ~~or~~

(C) telephoning or causing to be contacted by any telephonic means including, but not limited to any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter contains a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

(D) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subsection ~~(C)~~ (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

(d) (1) Whenever any vendor or other person provides any of the services defined in subsection (b), such vendor or other person shall keep and maintain records showing the name and address of the person who purchased or requested such services and the amount paid for such services. The records required by this subsection shall be kept for a period of one year after the date upon which payment was received for such services.

(2) *Failure to keep and maintain the records required by this subsection is a class C misdemeanor.*

New Sec. 30. (a) Every treasurer for a candidate for state or local office shall file reports of campaign contributions as prescribed by this act. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in the office of the secretary of state. Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Reports required by this section shall be in addition to any other reports required by law.

(b) The report shall contain the name and address of each person who has made one or more contributions in an aggregate amount or value of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending upon the day before such election. The report shall be made on or before the close of the second business day following the day in which any contribution is received. The report need contain only the amount and date of the contribution, including the name and address of every lender, guarantor and endorser when the contribution is in the form of an advance or loan.

(c) Reports required by this section shall be filed via electronic means, facsimile transmission, telegram or express delivery service.

(d) Reports filed with the secretary of state pursuant to this section shall be provided to the public on the governmental ethics commission's website and in any other manner the secretary of state deems appropriate.

(e) (1) "Local office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(2) "State office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(f) This section shall be part of and supplemental to the campaign finance act.

Sec. 31. K.S.A. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$50 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) Treasurers of candidates and of candidate committees shall be required to itemize, as provided in subsection (b)(2), only the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(d) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(e) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions, and notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(f) The commission may require any treasurer to file a report for any period for which the required report is not on file, and notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(g) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(h) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(i) *Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.*

Sec. 32. K.S.A. 25-4142 is hereby amended to read as follows: 25-4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and ~~K.S.A. 25-4153b~~ sections 30, 35, 36, 37 and 38, and amendments thereto, shall be known and may be cited as the campaign finance act.

Sec. 33. K.S.A. 2004 Supp. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

(a) "Candidate" means an individual who: (1) Appoints a treasurer or a candidate committee;

- (2) makes a public announcement of intention to seek nomination or election to state or local office;
- (3) makes any expenditure or accepts any contribution for such person's nomination or election to any state or local office; or
- (4) files a declaration or petition to become a candidate for state or local office.
- (b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.
- (c) "Clearly identified candidate" means a candidate who has been identified by the:
 - (1) Use of the name of the candidate;
 - (2) use of a photograph or drawing of the candidate; or
 - (3) unambiguous reference to the candidate whether or not the name, photograph or drawing of such candidate is used.
- (d) "Commission" means the governmental ethics commission.
- (e) (1) "Contribution" means:
 - (A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value given to a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.
 - (B) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;
 - (C) a transfer of funds between any two or more candidate committees, party committees or political committees;
 - (D) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;
 - (E) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events;
 - (F) a mailing of materials designed to expressly advocate the nomination, election or defeat of a clearly identified candidate, which is made and paid for by a party committee with the consent of such candidate.
- (2) "Contribution" does not include:
 - (A) The value of volunteer services provided without compensation;
 - (B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;
 - (C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;
 - (D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event; or
 - (E) *the transfer of campaign funds to a bona fide successor committee or candidacy in accordance with K.S.A. 25-4157a and amendments thereto.*
- (f) "Election" means:
 - (1) A primary or general election for state or local office; and
 - (2) a convention or caucus of a political party held to nominate a candidate for state or local office.
- (g) (1) "Expenditure" means:
 - (A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made by a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.
 - (B) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;
 - (C) any contract to make an expenditure;
 - (D) a transfer of funds between any two or more candidate committees, party committees or political committees; or

- (E) payment of a candidate's filing fees.
- (2) "Expenditure" does not include:
- (A) The value of volunteer services provided without compensation;
- (B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;
- (C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;
- (D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or
- (E) "cast your ballot" any communication by an incumbent elected state or local officer with one or more individuals unless the primary purpose thereof is to expressly advocate the nomination, election or defeat of a clearly identified candidate.
- (h) "Expressly advocate the nomination, election or defeat of a clearly identified candidate" means any communication which uses phrases including, but not limited to:
- (1) "Vote for the secretary of state";
 - (2) "re-elect your senator";
 - (3) "support the democratic nominee";
 - (4) "cast your ballot for the republican challenger for governor";
 - (5) "Smith for senate";
 - (6) "Bob Jones in '98";
 - (7) "vote against Old Hickory";
 - (8) "defeat" accompanied by a picture of one or more candidates; or
 - (9) "Smith's the one."
- (i) "Party committee" means:
- (1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
 - (2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
 - (3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;
 - (4) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate;
 - (5) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives; or
 - (6) not more than one political committee per congressional district established by the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and designated as a congressional district party committee.
- (j) "Person" means any individual, committee, corporation, partnership, trust, organization or association.
- (k) (1) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for state or local office or make contributions to or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office.
- (2) "Political committee" shall not include a candidate committee or a party committee.
- (l) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer's official capacity.
- (m) "Public office" means a state or local office.
- (n) "Local office" means:
- (1) A member of the governing body of a city of the first class;
 - (2) an elected office of:

(A) A unified school district having 35,000 or more pupils regularly enrolled in the preceding school year;

(B) a county; or

(C) the board of public utilities.

~~(m)~~ (o) "State office" means any state office as defined in K.S.A. 25-2505, and amendments thereto.

~~(n)~~ (p) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise contributions for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

~~(o)~~ (q) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the campaign finance act or a treasurer of a combination of individuals or a person other than an individual which is subject to paragraph (2) of subsection (a) of K.S.A. 25-4172, and amendments thereto.

~~(p)~~ "Local office" means a member of the governing body of a city of the first class, any elected office of a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities.

Sec. 34. K.S.A. 25-4157a is hereby amended to read as follows: 25-4157a. (a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

- (1) Legitimate campaign purposes;
- (2) expenses of holding political office;
- (3) contributions to the party committees of the political party of which such candidate is a member;
- (4) any membership dues or donations paid to a community service, *charitable* or civic organization in the name of the candidate or candidate committee of any candidate;
- (5) expenses incurred in the purchase of tickets to meals and special events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; or
- (6) expenses incurred in the purchase and mailing of greeting cards to voters and constituents.

For the purpose of this subsection, expenditures for "personal use" shall include expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

(b) No moneys received by any candidate or candidate committee of any candidate as a contribution shall be used to pay interest or any other finance charges upon moneys loaned to the campaign by such candidate or the spouse of such candidate.

(c) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit:

(1) A candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate's proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement; or

(2) A candidate or candidate committee from transferring campaign funds to a *bona fide* successor committee or candidacy established by the candidate.

~~(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state. At~~

the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds not otherwise obligated for the payment of expenses incurred in such campaign or the holding of office, or any portion of such funds, shall be:

- (1) Contributed to a charitable organization, as defined by the laws of the state; or
- (2) contributed to a party committee; or
- (3) returned as a refund in whole or in part to any contributor or contributors from whom such funds were received; or
- (4) paid into the general fund of the state; or
- (5) transferred to a bona fide successor committee or candidacy established by the candidate; or
- (6) transferred for the purpose of retiring the remaining debt to the original committee or candidacy from which funds were transferred pursuant to paragraph (2) of subsection (e).

Whenever a transfer to a bona fide successor committee or candidacy is made pursuant to paragraph (5), all moneys shall be transferred to the bona fide successor committee or candidacy.

(e) For the purposes of this section, "bona fide successor committee or candidacy" means:

- (1) The candidate's campaign committee or candidacy for a public office initiated at the termination of the original candidacy; or
- (2) the candidate's campaign committee or candidacy initiated at the time of the transfer of all moneys to a new campaign committee or candidacy for public office when there is debt in the original campaign at the time of the transfer and the candidate does not terminate the original campaign committee or candidacy.

New Sec. 35. (a) Upon transferring money to a bona fide successor committee or candidacy as defined by paragraph (2) of subsection (e) of K.S.A. 25-4157a, and amendments thereto, the candidate may only accept contributions to the original candidacy sufficient to retire the debt. Such contributions shall be subject to the contribution limits for the original office sought as set forth in K.S.A. 25-4153, and amendments thereto. Once the candidate has received sufficient contributions to retire the debt, the candidate must terminate the candidacy pursuant to the provisions set forth in subsection (d) of K.S.A. 25-4157a, and amendments thereto.

(b) This section shall be part of and supplemental to the campaign finance act.

New Sec. 36. (a) For the period commencing on January 1, 1976, and ending on the day preceding the effective date of this act, any candidate who transferred campaign funds to a bona fide successor candidacy, as such term is defined in K.S.A. 25-4157a, and amendments thereto, shall be deemed to have made such transfer in compliance with the provisions of the campaign finance act in existence at the time of such transfer regardless of when the original campaign fund is closed after the date such transfer is made and such transfer is hereby validated.

(b) This section shall be part of and supplemental to the campaign finance act.

New Sec. 37. The governmental ethics commission shall develop and implement forms for each report required to be made under the campaign finance act to be filled out on-line and transmitted via e-mail or over the internet. The provisions of this section shall be part of and supplemental to the Kansas campaign finance act.

Sec. 38. K.S.A. 2004 Supp. 25-4145 is hereby amended to read as follows: 25-4145. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairperson and a treasurer. The chairperson of each party committee and each political committee which anticipates receiving contributions or making expenditures for a candidate for state office shall make a statement of organization and file it with the secretary of state not later than 10 days after establishment of such committee. The chairperson of each political committee which anticipates receiving contributions or making expenditures for any candidate for local office, shall make a statement of organization and file it with the county election officer not later than 10 days after establishment of such committee.

(b) Every statement of organization shall include:

(1) The name and address of the committee. The name of the committee shall reflect the full name of the organization with which the committee is connected or affiliated or sufficiently describe such affiliation. If the political committee is not connected or affiliated with any one organization, the name shall reflect the trade, profession or primary interest of the committee as reflected by the statement of purpose of such organization;

(2) the names and addresses of the chairperson and treasurer of the committee;

(3) the names and addresses of affiliated or connected organizations; ~~and~~

(4) in the case of a political committee, the full name of the organization with which the committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization; *and*

(5) *in the case of a party committee, in addition to the other information required by this subsection, a description of the procedures used to:*

(A) *Select the persons in leadership positions;*

(B) *maintain and transfer control of the operations of the committee.*

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than 10 days following the change.

(d) (1) Each political committee which anticipates receiving contributions shall register annually with the commission on or before July 1 of each year. Each political committee registration shall be in the form and contain such information as may be required by the commission.

(2) Each registration by a political committee anticipating the receipt of \$2,501 or more in any calendar year shall be accompanied by an annual registration fee of \$240.

(3) Each registration by a political committee anticipating the receipt of more than \$500 but less than \$2,501 in any calendar year shall be accompanied by an annual registration fee of \$35.

(4) Each registration by a political committee anticipating the receipt of \$500 or less in any calendar year shall be accompanied by an annual registration fee of \$20.

(5) Any political committee which is currently registered under subsection (d)(3) or (d)(4) and which receives contributions in excess of \$2,500 for a calendar year, shall file, within three days of the date when contributions exceed such amount, an amended registration form which shall be accompanied by an additional fee for such year equal to the difference between \$240 and the amount of the fee that accompanied the current registration.

(6) Any political committee which is currently registered under subsection (d)(4) and which receives contributions in excess of \$500 but which are less than \$2,501, shall file, within three days of the date when contributions exceed \$500, an amended registration form which shall be accompanied by an additional fee of \$20 for such year.

(e) All such fees received by or for the commission 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 governmental ethics commission fee fund.

Sec. 39. K.S.A. 25-1307, 25-1309, 25-1311, 25-1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-1336, 25-1337, 25-1338, 25-1339, 25-1341, 25-1343, 25-4142, 25-4148, 25-4156, 25-4157a, 25-4401, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-4412, 25-4413, 25-4414, 25-4601, 25-4602, 25-4603, 25-4604, 25-4607, 25-4609, 25-4610, 25-4611, 25-4612 and 25-4613 and K.S.A. 2004 Supp. 25-1124, 25-1128, 25-4143 and 25-4145 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, in line 12, preceding “amend-” by inserting “relating to electronic and electromechanical voting systems; relating to the use of optical scanning systems to count votes; relating to campaign finance;”; in line 13, by striking all following “ing”; in line 14, by striking all preceding the period and inserting “K.S.A. 25-4142, 25-4148, 25-4156, 25-4157a, 25-4401, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-4412,

25-4413, 25-4414, 25-4601, 25-4602, 25-4603, 25-4604, 25-4607, 25-4609, 25-4610, 25-4611, 25-4612 and 25-4613 and K.S.A. 2004 Supp. 25-1124, 25-1128, 25-4143 and 25-4145 and repealing the existing sections; also repealing K.S.A. 25-1307, 25-1309, 25-1311, 25-1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-1336, 25-1337, 25-1338, 25-1339, 25-1341 and 25-1343”;

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

JENE VICKREY
MARIO GOICO
Conferees on part of House

TIM HUELSKAMP
KAY O'CONNOR
Conferees on part of Senate

On motion of Rep. Vickrey to adopt the conference committee report on **SB 142**, Rep. Holland 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 Mays thereupon appointed Reps. Vickrey, Goico and Holland as third conferees on the part of the House.

INTRODUCTION OF GUESTS

Rep. Carlin introduced Victoria Luhrs, Overland Park, a Kansas State University student, and winner of the Harry S. Truman Scholarship. Ms. Luhrs addressed a few remarks to the members of the House and was presented a House certificate commemorating her accomplishment. She was accompanied to the House by her mother, other relatives and friends.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 151**, submits the following report:

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

On page 1, by striking all in lines 15 through 40 and inserting the following:

“Section 1. K.S.A. 2004 Supp. 50-6a03 is hereby amended to read as follows: 50-6a03. Any tobacco product manufacturer selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the effective date of this act shall do one of the following:

(a) Become a participating manufacturer (as that term is defined in section II(jj) of the master settlement agreement) and generally perform its financial obligations under the master settlement agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

(A) 1999: \$.0094241 per unit sold after the effective date of this act;

(B) 2000: \$.0104712 per unit sold;

(C) for each of 2001 and 2002: \$.0136125 per unit sold;

(D) for each of 2003 through 2006: \$.0167539 per unit sold;

(E) for each of 2007 and each year thereafter: \$.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) of subsection (b) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(A) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subparagraph (i) in the order in which they

were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow, *based on units sold in the state of Kansas* in a particular year, was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement (as determined pursuant to section IX(i)(2) of the master settlement agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment) *master settlement agreement payments, as determined pursuant to section IX(i) of that agreement including, after final determination of all adjustments, that such manufacturer would have been required to make based on such units sold* had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B) of paragraph (2) of subsection (b), funds shall be released from escrow and revert back to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the attorney general that it is in compliance with this subsection. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(A) Be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be credited to the state general fund in an amount not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100% of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the state general fund in an amount not to exceed 15% of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300% of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. A tobacco product manufacturer who is found in violation of this section shall pay, in addition to other amounts assessed under this section and pursuant to law, the costs and attorney's fees incurred by the state during a successful presentation under this paragraph (3).

New Sec. 2. If any portion of the amendment to subsection (b)(2)(B) of K.S.A. 50-6a03 made by this act, is adjudged by any court of competent jurisdiction to be unconstitutional or invalid, then such subsection (b)(2)(B) of K.S.A. 50-6a03 shall be deemed to be repealed in its entirety. If subsection (b)(2) of K.S.A. 50-6a03 is adjudged by any court of competent jurisdiction to be unconstitutional or invalid, then this act shall be deemed repealed, and subsection (b)(2)(B) of K.S.A. 50-6a03 shall be restored as if no such amendment had been made. Neither any holding of unconstitutionality nor the repeal of subsection (b)(2)(B) of K.S.A. 50-6a03 shall affect, impair or invalidate the remainder thereof, or the application thereof to any other person or circumstance, and such remaining portions of K.S.A. 50-6a03 shall continue in full force and effect.

Sec. 3. K.S.A. 2004 Supp. 50-6a03 is hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “ACT”; by striking all in line 11; in line 12, by striking all before the period and inserting “amending the tobacco master settlement agreement; release of escrow funds; amending K.S.A. 2004 Supp. 50-6a03 and repealing the existing section”;

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

WARD LOYD
THOMAS C. OWENS
PAUL T. DAVIS
Conferees on part of House

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

On motion of Rep. Loyd to adopt the conference committee report on **SB 151**, Rep. Landwehr offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed.

The substitute motion did not prevail.

The question then reverted back to the original motion of Rep. Loyd and the conference committee report was adopted.

On roll call, the vote was: Yeas 76; Nays 47; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Carlin, Carlson, Colloton, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Huff, Humerickhouse, Huntington, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kirk, Kuether, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, McKinney, Menghini, M. Miller, Judy Morrison, Newton, O'Malley, O'Neal, Oharah, Owens, Peterson, Phelps, Powers, Roth, Ruff, Ruiz, Sawyer, Shultz, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Ward, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carter, Cox, Edmonds, Faber, Flower, Freeborn, Gatewood, George, Goico, M. Holmes, Huebert, Hutchins, Huy, Kinzer, Knox, Krehbiel, Landwehr, Lane, Mast, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Novascone, Olson, Otto, Pauls, Peck, Pilcher-Cook, Pottorff, Powell, Schwartz, B. Sharp, S. Sharp, Siegfried, Vickrey, Watkins, Weber.

Present but not voting: None.

Absent or not voting: Schwab, Showalter.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 215**, submits the following report:

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

On page 1, in line 18, by striking "This act" and inserting: "Sections 1 to 18, inclusive, and amendments thereto,";

On page 2, in line 23, by striking "(a)"; in line 25, by striking "(1)" and inserting "(a)"; in line 31, by striking "(2)" and inserting "(b)"; by striking all in lines 35, 36 and 37;

On page 5, preceding line 22, by inserting the following:

"Sec. 17. The costs of any proceeding arising out of a lien filed pursuant to this act, including reasonable attorney's fees, shall be awarded to the prevailing party or parties.";

And by renumbering sections accordingly;

Also on page 5, in line 28, by striking "no interest" and inserting "no legitimate claim"; by striking all in lines 42 and 43;

On page 6, by striking all in lines 1 through 5 and inserting in lieu thereof the following: "Sec. 19. K.S.A. 004 Supp. 58-3062 is hereby amended to read as follows: 58-3062. (a) No licensee, whether acting as an agent, transaction broker or a principal, shall:

(1) Intentionally use advertising that is misleading or inaccurate in any material particular or that in any way misrepresents any property, terms, values, policies or services of the business conducted, or uses the trade name, collective membership mark, service mark or

logo of any organization owning such name, mark or logo without being authorized to do so.

(2) Fail to account for and remit any money which comes into the licensee's possession and which belongs to others.

(3) Misappropriate moneys required to be deposited in a trust account pursuant to K.S.A. 58-3061, and amendments thereto, convert such moneys to the licensee's personal use or commingle the money or other property of the licensee's principals with the licensee's own money or property, except that nothing herein shall prohibit a broker from having funds in an amount not to exceed \$100 in the broker's trust account to pay expenses for the use and maintenance of such account.

(4) Accept, give or charge any rebate or undisclosed commission.

(5) Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a rebate by the Kansas or out-of-state licensee.

(6) Represent or attempt to represent a broker without the broker's express knowledge and consent.

(7) Guarantee or authorize any person to guarantee future profits that may result from the resale of real property.

(8) Place a sign on any property offering it for sale or lease without the written consent of the owner or the owner's authorized agent.

(9) Offer real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent.

(10) Induce any party to break any contract of sale or lease.

(11) Pay a commission or compensation to any person, not licensed under this act, for performing any activity for which a license is required under this act.

(12) Fail to see that financial obligations and commitments between the parties to an agreement to sell, exchange or lease real estate are in writing, expressing the exact agreement of the parties or to provide, within a reasonable time, copies thereof to all parties involved.

(13) Procure a signature to a purchase contract which has no definite purchase price, method of payment, description of property or method of determining the closing date.

(14) Engage in fraud or make any substantial misrepresentation.

(15) Represent to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

(16) Fail to make known to any purchaser or lessee any interest the licensee has in the real estate the licensee is selling or leasing or to make known to any seller or lessor any interest the licensee will have in the real estate the licensee is purchasing or leasing.

(17) Fail to inform both the buyer, at the time an offer is made, and the seller, at the time an offer is presented, that certain closing costs must be paid and the approximate amount of such costs.

(18) Fail without just cause to surrender any document or instrument to the rightful owner.

(19) Accept anything other than cash as earnest money unless that fact is communicated to the owner prior to the owner's acceptance of the offer to purchase, and such fact is shown in the purchase agreement.

(20) Fail to deposit any check or cash received as an earnest money deposit or as a deposit on the purchase of a lot within five business days after the purchase agreement or lot reservation agreement is signed by all parties, unless otherwise specifically provided by written agreement of all parties to the purchase agreement or lot reservation agreement, in which case the licensee shall deposit the check or cash received on the date provided by such written agreement.

(21) Fail in response to a request by the commission or the director to produce any document, book or record in the licensee's possession or under the licensee's control that concerns, directly or indirectly, any real estate transaction or the licensee's real estate business.

(22) Refuse to appear or testify under oath at any hearing held by the commission.

(23) Demonstrate incompetency to act as a broker, associate broker or salesperson.

(24) *Except as provided by K.S.A. 40-2404, and amendments thereto*, knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement, involving the issuance of a title insurance policy or contract concerning which the licensee is directly or indirectly connected, from a title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof.

(25) Engage in the purchase of one-, two-, three- or four-family dwellings, including condominiums and cooperatives, or the acquisition of any right, title or interest therein, including any equity or redemption interests, if:

(A) (i) At the time of such purchase, the dwellings are subject to a right of redemption pursuant to foreclosure of a mortgage on such dwellings; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder or judgment creditor who held such mortgage; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the judgment lien arising from the foreclosure of such mortgage, as payments become due under the loan, regardless of whether the licensee is obligated to do so;

(B) (i) the dwellings are subject to a loan which is secured by a mortgage and which is in default at the time of such purchase or in default within one year after such purchase; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the mortgage as the payments come due, regardless of whether the licensee is obligated on the loan; or

(C) the licensee fails to notify, at the time of rental, any person renting any such dwelling of the extent and nature of the licensee's interest in such dwelling and the probable time until possession will be taken by the mortgage holder or judgment creditor.

(26) Commit forgery or, unless authorized to do so by a duly executed power of attorney, sign or initial any contractual agreement on behalf of another person in a real estate transaction.

(27) Enter into contracts with persons not licensed by the commission to perform services requiring a license under K.S.A. 58-3034 *et seq.*, and amendments thereto, except as provided by K.S.A. 2004 Supp. 58-3077, and amendments thereto.

(b) No salesperson or associate broker shall:

(1) Except as provided in paragraph (A) or (B), accept a commission or other valuable consideration from anyone other than the broker by whom the licensee is employed or with whom the licensee is associated as an independent contractor.

(A) A salesperson or associate broker may accept a commission or other valuable consideration from a licensee who employs the salesperson or associate broker as a personal assistant provided that: (i) the licensee and the salesperson or associate broker who is employed as a personal assistant are licensed under the supervision of the same broker, and (ii) the supervising broker agrees in writing that the personal assistant may be paid by the licensee.

(B) If a salesperson or associate broker has (i) organized as a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, (ii) incorporated under the Kansas general corporation code contained in K.S.A. 17-6001 *et seq.*, and amendments thereto, (iii) organized under the Kansas limited liability company act contained in K.S.A. 2004 Supp. 17-7662 *et seq.*, and amendments thereto, or (iv) has organized as a limited liability partnership as defined in K.S.A. 2004 Supp. 56a-101, and amendments thereto, the commission or other valuable consideration may be paid by the licensee's broker to such professional corporation, corporation, limited liability company or limited liability partnership. This provision shall not alter any other provisions of this act.

(2) Fail to place, as soon after receipt as practicable, any deposit money or other funds entrusted to the salesperson or associate broker in the custody of the broker whom the salesperson or associate broker represents.

(3) (A) Except as provided by paragraph (B), be employed by or associated with a licensee at any one time other than the supervising broker who employs such salesperson or associate

broker or with who the salesperson or associate broker is associated as an independent contractor.

(B) An associate broker may be employed by or associated with more than one supervising broker at any one time if each supervising broker who employs or associates with the associate broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(4) Except as provided by subsection (b), pay a commission or compensation to any person for performing any activity for which a license is required under this act.

(5) Fail to disclose to such salesperson's or associate broker's supervising broker or branch broker that such salesperson or associate broker is performing any activity for which a license is required under K.S.A. 58-3036, and amendments thereto, outside the supervision of the supervising broker or branch broker. The provisions of this subsection shall not apply to any activity or person exempted from the real estate brokers' and salespersons' license act pursuant to K.S.A. 58-3037, and amendments thereto.

(c) No broker shall:

(1) Pay a commission or compensation to any person for performing the services of an associate broker or salesperson unless such person is licensed under this act and employed by or associated with the broker.

(2) Fail to deliver to the seller in every real estate transaction, at the time the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by the broker for the seller, or fail to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, or fail to retain true copies of such statements in the broker's files, except that the furnishing of such statements to the seller and buyer by an escrow agent shall relieve the broker's responsibility to the seller and the buyer.

(3) Fail to properly supervise the activities of an associated or employed salesperson or associate broker.

(4) Lend the broker's license to a salesperson, or permit a salesperson to operate as a broker.

(5) Fail to provide to the principal a written report every 30 days, along with a final report, itemizing disbursements made by the broker from advance listing fees.

(d) (1) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker, no listing broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(2) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and the property was not listed with a broker, no broker for the buyer shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(3) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and neither the seller nor buyer is represented by a broker, no transaction broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

The commission may adopt rules and regulations to require that such purchase agreement which provides that the earnest money be held by an escrow agent other than a real estate broker include: (1) notification of whether or not the escrow agent named in the purchase agreement maintains a surety bond, and (2) notification that statutes governing the disbursement of earnest money held in trust accounts of real estate brokers do not apply to earnest money deposited with the escrow agent named in the purchase agreement.

(e) A branch broker shall not be employed by or associated with more than one supervising broker at any one time unless each supervising broker who employs or associates with the branch broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(f) Nothing in this section shall be construed to grant any person a private right of action for damages or to eliminate any right of action pursuant to other statutes or common law.

Sec. 20. K.S.A. 58-4109 is hereby amended to read as follows: 58-4109. (a) There is hereby established the following classes of real property appraisers:

- (1) State licensed real property appraiser classification;
- (2) certified general real property appraiser classification;
- (3) certified residential real property appraiser classification; and
- (4) state provisional licensed real property appraiser classification.

(b) The board may establish, by rules and regulations, such other classifications as permitted by federal law.

(c) The board shall adopt rules and regulations, consistent with requirements and criteria adopted pursuant to federal law, to:

- (1) Define each classification;
- (2) establish education and experience requirements for each classification;
- (3) establish examination specifications for each classification; and
- (4) establish continuing education requirements for renewal of each classification.

(d) In adopting rules and regulations pursuant to subsection (c), the board shall determine the education, experience and examination requirements necessary to provide appropriate assurance that an applicant for certification or licensure is competent to perform appraisals within the scope of practice of the appraisal work authorized for the classification applied for and that persons renewing their certificates or licenses have current knowledge of real property appraisal theory, practices and techniques which will provide a high degree of service and protection to those members of the public with whom they deal. In making such determination, the board shall take into consideration the following:

- (1) Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing and economic concepts applicable to real estate;
- (2) understanding of the principles of land economics, real estate appraisal processes and problems likely to be encountered in gathering, interpreting and processing data in carrying out appraisal disciplines;
- (3) understanding of the standards for the development and communication of real estate appraisals as provided in this act;
- (4) knowledge of theories of depreciation, cost estimating, methods of capitalization and mathematics of real estate appraisal that are appropriate for the classification applied for;
- (5) knowledge of such other principles and procedures as may be appropriate for the respective classifications;
- (6) basic understanding of real estate law;
- (7) understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state certified or licensed appraiser, as set forth in this act;

- (8) the requirements of federal law; and
 (9) such other matters as the board determines appropriate and relevant.
 (e) The application for original certification or licensure and examination shall specify the classification being applied for.
 (f) In no event shall a certificate or license be issued to an individual unless the examination required for the classification applied for was passed by the applicant within the five-year period immediately preceding the date of application.
~~(g) The board may approve applications for transitional licenses received prior to December 31, 1991, if the board determines the applicant has met the education and examination requirements established for state licensed appraisers.
 —A transitional license shall expire on the next June 30 after issuance and shall not be renewed more than two times. The license shall include a statement that it is a transitional license. If the transitional license is renewed a second time, the renewed license shall include a statement that it may not be renewed and extended beyond the expiration date appearing on the license.
 —The holder of a transitional license may obtain forms from the board to submit evidence of having completed the experience requirements established for state licensed appraisers. If the board approves issuance of a license prior to the expiration date of the transitional license, the applicant shall return the transitional license to the board.
 —Except as provided in this subsection, applicants for transitional licenses and holders of transitional licenses are subject to all provisions of this act and any rules and regulations adopted hereunder.~~

Sec. 21. K.S.A. 58-4109 and K.S.A. 2004 Supp. 58-3062 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 14, after “ACT” by inserting: “concerning real estate;”; also in line 14, by striking “amending”; in line 15, by striking all before the period and inserting: “concerning real estate appraisers; relating to real estate brokers and salespersons; amending K.S.A. 58-4109 and K.S.A. 2004 Supp. 58-3062 and repealing the existing sections”;

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

DONALD L. DAHL
 L. CANDY RUFF
Conferees on part of House

JOHN VRATIL
 DEREK SCHMIDT
 GRETA GOODWIN
Conferees on part of Senate

On motion of Rep. Dahl, the conference committee report on **SB 215** was adopted.

On roll call, the vote was: Yeas 111; Nays 13; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Landwehr, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Vickrey, Watkins, Weber, Wilk, Williams, Wimm, Yoder, Yonally.

Nays: Carlson, Edmonds, Faber, Flora, Kirk, Krehbiel, Kuether, Lane, M. Miller, Pauls, Peterson, Treaster, Ward.

Present but not voting: None.

Absent or not voting: Showalter.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Wilk moved that the House reconsider its adverse action in not adopting the conference committee report on **SB 102**.

Roll call was demanded.

On roll call, the vote was: Yeas 64; Nays 60; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Carlson, Carter, Craft, Dahl, DeCastro, Edmonds, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Krehbiel, Landwehr, Light, Loyd, Mast, Mays, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Siegfried, Watkins, Weber, Wilk, Yonally.

Nays: Ballard, Burgess, Burroughs, Carlin, Colloton, Cox, Crow, Davis, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Huff, Huntington, D. Johnson, Kinzer, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McCreary, McKinney, Menghini, M. Miller, Judy Morrison, Owens, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Shultz, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn, Yoder.

Present but not voting: None.

Absent or not voting: Showalter.

The motion prevailed and the question reverted back to the motion to adopt the conference committee report on **SB 102**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 102**, 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 4, after line 20, by inserting the following:

“New Sec. 4. The provisions of this act shall be considered substantive in nature.

New Sec. 5. The provisions of this act shall expire on July 1, 2008.”;

And by renumbering the remaining sections accordingly;

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

MICHAEL R. O'NEAL

ERIC CARTER

Conferees on part of House

JOHN VRATIL

DEREK SCHMIDT

GRETA GOODWIN

Conferees on part of Senate

On motion of Rep. O'Neal to adopt the conference committee report on **SB 102**, the motion did not prevail.

Call of the House was demanded.

On roll call, the vote was: Yeas 59; Nays 65; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Carlson, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Freeborn, George, Goico, Gordon, Grange, Hayzlett, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Krehbiel, Landwehr, Mast, Mays, McLeland, Merrick, F. Miller, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz, S. Sharp, Siegfried, Watkins, Weber, Wilk, Yonally.

Nays: Ballard, Burgess, Burroughs, Carlin, Colloton, Cox, Crow, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Huff, Huntington, D. Johnson, Kinzer, Kirk, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, McCreary, McKinney, Menghini, M. Miller, Jim Morrison, Judy Morrison, Otto, Owens, Pauls, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Shultz, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn, Yoder.

Present but not voting: None.

Absent or not voting: Showalter.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Carter moved that the House reconsider its adverse action in not adopting the conference committee report on **S. Sub. for HB 2016**.

The motion did not prevail.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2109**, submits the following report:

The Senate recedes from all of its amendments to the bill and your committee on conference further agrees to amend the bill as printed as originally introduced, as follows:

On page 1, in line 17, following the comma, by inserting "or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts,"; in line 24, following the comma, by inserting "or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts,";

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

JOHN VRATIL
LES DONOVAN
GRETA GOODWIN
Conferees on part of House

GARY K. HAYZLETT
JOHN FABER
MARGARET E. LONG
Conferees on part of Senate

On motion of Rep. Hayzlett, the conference committee report on **HB 2109** was adopted. Call of the House was demanded.

On roll call, the vote was: Yeas 107; Nays 17; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Colloton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Jack, D. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Lane, Larkin, Light, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Carlin, Crow, Feuerborn, Flora, Huntington, E. Johnson, Kirk, Kuether, Landwehr, Loganbill, Loyd, O'Malley, Otto, Powers, Vickrey, Ward, Winn.

Present but not voting: None.

Absent or not voting: Showalter.
 On motion of Rep. Aurand, the House recessed until 4:45 p.m.

LATE AFTERNOON SESSION

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

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 216**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2116**, 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 24, by striking "New"; in line 33, by striking "New";

On page 2, in line 15, by striking "New"; in line 40, by striking "New";

On page 3, by striking all in lines 16 through 43;

By striking all on pages 4 through 9;

On page 10, by striking all in lines 1 through 35;

And by renumbering the remaining section accordingly;

In the title, in line 14, by striking "powers and duties"; in line 15, by striking all before "disposition" and inserting "wildlife and parks; concerning the"; in line 16, by striking all after "moneys"; by striking all in lines 17 through 19;

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

DWAYNE UMBARGER

JAY SCOTT EMLER

JIM BARONE

Conferees on part of House

SHARON SCHWARTZ

MELVIN J. NEUFELD

JERRY WILLIAMS

Conferees on part of Senate

On motion of Rep. Schwartz, the conference committee report on **HB 2116** was adopted.
 Call of the House was demanded.

On roll call, the vote was: Yeas 120; Nays 4; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Flora, Kirk, Kuether, Lane.

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2262**, submits the following report:

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

On page 1, in line 30, by striking "or the governor";

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

MICHAEL R. O'NEAL
JEFF JACK
JANICE L. PAULS
Conferees on part of House

On motion of Rep. O'Neal, the conference committee report on **HB 2262** was adopted.

On roll call, the vote was: Yeas 123; Nays 1; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Lane.

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2338**, 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.

DWAYNE UMBARGER
JAY SCOTT EMLER
JIM BARONE
Conferees on part of Senate

MELVIN J. NEUFELD
BRENDA LANDWEHR
DOUG GATEWOOD
Conferees on part of House

On motion of Rep. Neufeld, the conference committee report on **HB 2338** was adopted.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Showalter.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2386**, 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 2, in line 15, by striking "direct"; also in line 15, by striking "offender" and inserting "juvenile justice authority or juvenile community supervision agency"; in line 16, by striking "direct"; in line 17, by striking "offender" and inserting "juvenile justice authority or juvenile community supervision agency and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under supervision";

On page 3, in line 33, by striking "juveniles" and inserting "juvenile offenders"; in line 36, after "thereto" by inserting ", and the Kansas juvenile justice code, K.S.A. 38-1601 et seq., and amendments thereto"; in line 40, by striking "and"; in line 42, by striking the period and inserting"; and

(13) "juvenile community supervision agency" means an entity that receives grants for the purpose of providing direct supervision to juveniles in the custody of the juvenile justice authority.";

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

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

WARD LOYD
THOMAS C. OWENS
PAUL T. DAVIS
Conferees on part of House

On motion of Rep. Loyd, the conference committee report on **HB 2386** was adopted.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller,

Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Showalter.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEKAER: Your committee on conference on House amendments to **SB 181**, submits the following report:

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

On page 1, by striking all in lines 29 through 43;

On page 2, by striking all in lines 1 through 9; following line 9, by inserting:

"New Sec. 2. (a) In any action alleging a violation of article 6 of the Kansas constitution, venue shall be brought in the county as designated by the three judge panel appointed pursuant to section 1, and amendments thereto. In making such designation, the judicial panel shall consider the location of the parties and the witnesses.

(b) In any action alleging a violation of article 6 of the Kansas constitution in which the plaintiff alleges that the legislature has failed to provide intellectual, educational, vocational and scientific improvement in public schools or has failed to make suitable provision for finance of the educational interests of the state, it shall be the plaintiff's burden to prove that state moneys appropriated by the legislature, including any moneys specified in subsection (c) of K.S.A. 72-6410, and amendments thereto, were not adequate to fund the cost of providing the subjects or areas of instruction required by state law to be provided in accredited schools, including reasonable and necessary related instruction, administration, support staff, supplies, equipment and building costs. In any such action in which the plaintiff alleges that such moneys have not been equitably appropriated or allocated, it shall be the plaintiff's burden to prove that such moneys were not equitably appropriated or allocated.

(c) In determining whether a plaintiff has met its burden of proof as specified in subsection (b), the judicial panel shall make such determination based on an analysis of adequacy or equity had such moneys been utilized first to fund the reasonable and necessary costs of providing the required subjects or areas of instruction and related services specified in subsection (b). The judicial panel shall not be bound by the manner in which such moneys were utilized, in fact, by the school district.

(d) Nothing in this section shall be construed as applying to any moneys derived from a tax imposed pursuant to K.S.A. 72-6435, and amendments thereto.";

Also on page 2, in line 31, by striking "Article" and inserting "article";

On page 3, following line 4, by inserting:

"Sec. 4. K.S.A. 2004 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a)

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

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in

either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

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

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

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

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. The state board shall select not more than ~~5,500~~ 5,900 preschool-aged at-risk pupils to be counted in any school year.

(e) "Enrollment" means: (1) For districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this clause (1), the number of pupils regularly enrolled in the district on September 20; (2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or (3) the number of pupils as determined under K.S.A. 72-6447, and amendments thereto.

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

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

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

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

(j) “School facilities weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

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

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

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

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

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

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

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

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

By renumbering sections accordingly;

Also on page 3, in line 5, by striking "is" and inserting "and 72-6407 are";
 In the title, by striking all in lines 9, 10 and 11 and inserting:
 AN ACT concerning school finance; relating to actions filed in relation thereto; relating to certain defined terms; amending K.S.A. 2004 Supp. 60-2102 and 72-6407 and repealing the existing sections.";

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

KATHE DECKER
 MICHAEL R. O'NEAL
Conferees on part of House

JOHN VRATIL
 DEREK SCHMIDT
Conferees on part of Senate

On motion of Rep. O'Neal to adopt the conference committee report on **SB 181**, the motion did not prevail (see further action, this Journal).

On roll call, the vote was: Yeas 61; Nays 63; Present but not voting: 0; Absent or not voting: 1.

Yeas: Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Oharah, Olson, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz, Shultz, Siegfried, Watkins, Weber.

Nays: Aurand, Ballard, Burroughs, Carlin, Colloton, Cox, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Huff, Huntington, D. Johnson, Kirk, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Newton, O'Malley, Otto, Owens, Pauls, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Wilk, Williams, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Showalter.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 216**, 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 lines 21 through 43;

By striking all on pages 2 through 9;

On page 10, by striking lines 1 through 27 and inserting:

"Section 1. K.S.A. 22-3001 is hereby amended to read as follows: 22-3001. (1) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(2) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election. The petition shall be in substantially the following form:

The undersigned qualified electors of the county of _____ and state of Kansas hereby request that the district court of _____ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any, and shall show the

~~precinct and ward or township of which such signer is an elector.~~ One of the signers of each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true. The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court, together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election. The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned.

(3) The grand jury shall consist of 15 members and shall be drawn and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors.

Sec. 2. K.S.A. 22-3001 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, by striking all in lines 10 through 18 and inserting:
“AN ACT concerning grand juries; relating to petitions; amending K.S.A. 22-3001 and repealing the existing section.”;

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

JENE VICKREY
BONNIE HUY
TOM HOLLAND
Conferees on part of House

TIM HUELSKAMP
KAY O'CONNOR
MARCI FRANCISCO
Conferees on part of Senate

On motion of Rep. Vickrey, the conference committee report on **SB 216** was adopted.

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

Yeas: Aurand, Ballard, Beamer, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treasurer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Humerickhouse, Loyd, Showalter.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Myers, the House concurred in Senate amendments to **HB 2253**, An act concerning wildlife; relating to wildlife violations; amending K.S.A. 22-2908, 32-1002, 32-1003 and 32-1031 and K.S.A. 2004 Supp. 32-1001, 32-1004, 32-1013 and 32-1032 and repealing the existing sections.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Humerickhouse, Showalter.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 298** be amended on page 3, in line 35, by striking "Counties" and inserting "From and after November 8, 2006, counties"; in line 37, by striking "Counties" and inserting "From and after November 8, 2006, counties"; also in line 37, by striking "or"; in line 38, by striking all before "the"; in line 40, by striking "Counties" and inserting "From and after November 8, 2006, counties"; in line 42, by striking "Counties" and inserting "From and after November 8, 2006, counties"; also in line 42, by striking "or are"; in line 43, by striking all before "the";

On page 4, in line 16, before "K.S.A." by inserting "From and after November 8, 2006,;" in line 40, by striking "or which are more restrictive than or supplemental to";

On page 5, in line 3, before "K.S.A." by inserting "From and after November 8, 2006,;" in line 23, by striking all after the comma; in line 24, by striking "this act" and inserting "on or before February 6, 2007"; in line 39, by striking "the effective date of this act" and inserting "November 7, 2006";

On page 6, in line 3, before "K.S.A." by inserting "From and after November 8, 2006,;"

On page 8, in line 11, before "K.S.A." by inserting "From and after November 8, 2006,;"

On page 9, by striking all in lines 13 through 20; in line 21, before "K.S.A." by inserting "From and after November 8, 2006,;"

On page 10, in line 18, before "K.S.A." by inserting "From and after November 8, 2006,;" in line 39, before "K.S.A." by inserting "From and after November 8, 2006,;" in line 41, by striking "hours and"; in line 42, by striking "been restricted" and inserting "not been expanded as provided by section 9, and amendments thereto, or have been so expanded and subsequently restricted as provided by section 9, and amendments thereto,;" in line 43, by striking "hours and";

On page 11, in line 2, by striking all after "by"; in line 3, by striking "thereto" and inserting "section 9, and amendments thereto, or have been so expanded and subsequently restricted as provided by section 9, and amendments thereto,;" in line 17, by striking "hours" and inserting "days"; in line 18, by striking "not been restricted" and inserting "been expanded as provided by section 9, and amendments thereto, and have not been subsequently restricted"; in line 19, by striking "in" and inserting "by"; in line 20, by striking "hours and"; in line 21, by striking "K.S.A. 41-303" and inserting "section 9, and amendments thereto, and have not been subsequently restricted as provided by section 9"; in line 24, after "on" by inserting "Easter Sunday,;" in line 25, by striking ", except"; in line 26, by striking "that the" and inserting ". The"; by striking all in lines 29 through 43;

On page 12, by striking all in lines 1 through 14; following line 20, by inserting:

"New Sec. 9. (a) (1) The board of county commissioners of any county may, by resolution, or shall, upon a petition filed in accordance with subsection (a)(2), submit to the qualified

voters of the county who reside within the unincorporated area of the county at any state general election a proposition to:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the unincorporated area of the county on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to prohibit such sale within the unincorporated area of the county on Sunday, Memorial Day, Independence Day and Labor Day.

(2) Such petition shall be filed with the county election officer. The petition shall be signed by qualified voters of the county who reside within the unincorporated area of the county equal in number to not less than 10% of the voters of the county residing within the unincorporated area of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of _____ county."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of _____ county and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the unincorporated area of _____ county."

(3) Upon the adoption of a resolution or the submission of a valid petition calling for an election pursuant to this subsection (a), the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the unincorporated area of the county at the next succeeding state general election which occurs more than 90 days after the resolution is adopted or the petition is filed with the county election officer:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of _____ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of _____ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?"

(b) (1) The governing body of any city may, by ordinance, or shall, upon a petition filed in accordance with subsection (b)(2), submit to the qualified voters of the city at any state general election a proposition to:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the city on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to prohibit such sale within the city on Sunday, Memorial Day, Independence Day and Labor Day.

(2) Such petition shall be filed with the county election officer. The petition shall be signed by qualified voters of the city equal in number to not less than 10% of the voters of the city who voted for the office of secretary of state at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of _____."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of _____ and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the city of _____."

(3) Upon the adoption of an ordinance or the submission of a valid petition calling for an election pursuant to this subsection (b), the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the city at the next succeeding state general election which occurs more than 90 days after the ordinance is adopted or the petition is filed with the county election officer:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the city, the following proposition shall be placed on the ballot: "Within the city of _____ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the following proposition shall be placed on the ballot: "Within the city of _____ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?"

(c) The county election officer shall transmit to the director a copy of the results of an election pursuant to this section.

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

Also on page 12, in line 21, before "K.S.A." by inserting "From and after November 8, 2006.;"

On page 13, in line 13, before "K.S.A." by inserting "From and after November 8, 2006.;"

On page 15, in line 24, by striking "(a)" and inserting "From and after November 8, 2006: (a)";

Also on page 15, in line 33, by striking "or contrary to"; by striking all in lines 36 through 39; in line 40, by striking "(d)" and inserting "(c)";

On page 16, in line 1, before "K.S.A." by inserting "From and after November 8, 2006,;" in line 9, by striking "hours and"; in line 10, by striking "been restricted" and inserting "not been expanded as provided by section 9, and amendments thereto, or have been so expanded and subsequently restricted"; in line 14, by striking "14" and inserting "9, and amendments thereto, or have been so expanded and subsequently restricted as provided by section 9"; in line 24, by striking "hours" and inserting "days"; in line 25, by striking "not been restricted" and inserting "been expanded as provided by section 9, and amendments thereto, and have not been subsequently restricted"; in line 27, by striking "hours and"; in line 29, by striking "14" and inserting "9, and amendments thereto, and have not been subsequently restricted as provided by section 9"; in line 31, by striking "or"; in line 33, by striking "or"; following line 33, by inserting:

"(3) on Easter Sunday; or";

Also on page 16, in line 34, by striking "(3)" and inserting "(4)";

On page 17, by striking all in lines 40 through 43;

On page 18, by striking all in lines 1 through 3 and inserting:

"Sec. 14. K.S.A. 2004 Supp. 19-101a and 19-101k are hereby repealed.";

Also on page 18, in line 4, before "K.S.A." by inserting "From and after November 8, 2006,;" in line 5, by striking "19-101a, 19-101k,;" and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 2537, An act reconciling amendments to certain statutes; amending K.S.A. 2004 Supp. 19-101a, 44-661, 44-820, 65-5703, 74-2622, 74-32,151, 8-135, as amended by section 1 of 2005 Senate Bill No. 23, 12-187, as amended by section 1 of 2005 Senate Bill No. 58, 12-189, as amended by section 2 of 2005 Senate Bill No. 58, 12-189, as amended by section 3 of this act; 12-192, as amended by section 3 of 2005 Senate Bill No. 58, K.S.A. 12-520, as amended by section 11 of 2005 House Bill No. 2083, K.S.A. 2004 Supp. 12-1770a, as amended by section 1 of 2005 Senate Substitute for House Bill No. 2144, 21-4619, as amended by section 2 of 2005 House Bill No. 2128, 21-4619, as amended by section 9 of this act, K.S.A. 40-3641, as amended by section 5 of 2005 House Bill No. 2326, K.S.A. 2004 Supp. 44-706, as amended by section 5 of 2005 Senate Bill No. 108, 60-1103b, as amended by section 15 of 2005 Senate Bill No. 258, 65-5603, as amended by section 1 of 2005 House Bill No. 2130, 74-50,115, as amended by section 1 of 2005 House Bill No. 2102 and 79-32,117, as amended by section 10 of 2005 House Bill No. 2222, and repealing the existing sections; also repealing K.S.A. 2004 Supp. 19-101k, 44-661a, 44-820a, 65-688a, 65-5703a, 74-567a, 74-2622a, 74-32,151a, 74-4911h, 82a-714a, 8-135, as amended by section 1 of 2005 House Bill No. 2124, 12-187, as amended by section 1 of 2005 Senate Bill No. 105, 12-187, as amended by section 1 of 2005 Senate Bill No. 295, 12-189, as amended by section 1 of 2005 Senate Bill No. 13, 12-189, as amended by section 2 of 2005 Senate Bill No. 295, 12-192, as amended by section 3 of 2005 Senate Bill No. 295, 12-520, as amended by section 1 of 2005 House Substitute for Senate Bill No. 24, 12-1770a, as amended by section 1 of 2005 House Bill No. 2140, K.S.A. 2003 Supp. 21-4619, as amended by section 59 of chapter 154 of the 2004 Session Laws of Kansas, K.S.A. 2004 Supp. 21-4619, as amended by section 1 of 2005 House Bill No. 2466, K.S.A. 40-3641, as amended by section 3 of 2005 House Bill No. 2325, K.S.A. 2004 Supp. 44-706, as amended by section 1 of 2005 House Bill No. 2157, 60-1103b, as amended by section 2 of 2005 Senate Bill No. 112, 65-5603, as amended by section 2 of 2005 Senate Bill No. 116, 74-50,115, as amended by section 1 of 2005 House Bill No. 2164 and 79-32,117, as amended by section 1 of 2005 Senate Bill No. 256, by Committee on Appropriations.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Larkin moved that the House reconsider its adverse action in not adopting the conference committee report on **SB 181** (see previous action, this Journal).

The motion prevailed.

The question reverted back to the motion of Rep. O'Neal and the conference committee report on **SB 181** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 63; Nays 59; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz, Shultz, Siegfried, Vickrey, Watkins, Weber.

Nays: Ballard, Burroughs, Carlin, Colloton, Cox, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Huff, Huntington, D. Johnson, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Newton, O'Malley, Owens, Pauls, Peterson, Phelps, Pottorff, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Ward, Wilk, Williams, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Kirk, Powers, Showalter.

REPORT ON ENGROSSED BILLS

HB 2018 reported correctly engrossed April 1, 2005.

Also, **S. Sub. for HB 2144**; **HB 2203** reported correctly engrossed April 4, 2005.

HB 2045, **HB 2053**, **HB 2263**, **HB 2310**, **HB 2448**, **HB 2466** reported correctly re-engrossed April 4, 2005.

Also, **HB 2058**, **HB 2072**, **HB 2083**, **HB 2128**, **HB 2264**, **HB 2268**, **HB 2301**, **HB 2331**, **HB 2357**, **HB 2385**, **HB 2406** reported correctly re-engrossed April 5, 2005.

HB 2109 reported correctly engrossed April 27, 2005.

REPORT ON ENGROSSED RESOLUTIONS

HCR 5013 reported correctly engrossed April 5, 2005.

REPORT ON ENROLLED BILLS

HB 2503 reported correctly enrolled, properly signed and presented to the governor on April 5, 2005.

Also, **HB 2247** reported correctly enrolled, properly signed and presented to the governor on April 6, 2005.

Also, **HB 2018**, **HB 2045**, **HB 2053**, **HB 2058**, **HB 2072**, **HB 2077**, **HB 2083**; **Sub. HB 2087**; **HB 2124**, **HB 2128**; **S. Sub. for HB 2144**; **S. Sub. for HB 2172**; **HB 2203**, **HB 2263**, **HB 2264**, **HB 2268**; **Sub. HB 2276**; **HB 2301**, **HB 2309**, **HB 2310**, **HB 2331**, **HB 2357**, **HB 2380**, **HB 2385**, **HB 2387**, **HB 2390**, **HB 2406**, **HB 2448**, **HB 2466**; **S. Sub. for HB 2501** reported correctly enrolled, properly signed and presented to the governor on April 8, 2005.

REPORT ON ENROLLED RESOLUTIONS

HR 6021, **HR 6024**, **HR 6032** reported correctly enrolled and properly signed on April 6, 2005.

Also, **HCR 5013**, **HCR 5017** reported correctly enrolled and properly signed on April 8, 2005.

On motion of Rep. Aurand, the House adjourned until 9:30 a.m., Thursday, April 28, 2005.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

