

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 1, 2008—11:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

While we cheer our athletes,

And that we rightly do . . .

Let us not forget to honor

Our champion scholars, too.

Our debate teams and others,

Represent us well.

They are champions, too,

As they were here to tell.

Thank you for their great success,

And for their future, too.

Time and teamwork have proved.

What hard work can do!

And we thank You, Lord, for talents

Which equip them for debate.

These young intellectuals

Will bring honor to our state.

I pray for them in the Name of Jesus,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Committee of the Whole: **SB 702, SB 703.**

Judiciary: **SB 701.**

COMMUNICATIONS FROM STATE OFFICERS

MAKE A DIFFERENCE

KANSAS INTERAGENCY COORDINATING COUNCIL
ON EARLY CHILDHOOD DEVELOPMENTAL SERVICES

Doug Bowman, Coordinator, submitted the annual report for July 1, 2006 through June 30, 2007.

KANSAS DEPARTMENT OF CORRECTIONS

May 1, 2008

In accordance with the provisions of KSA 60-4117, Roger Werholtz, Secretary of Corrections, submitted the Report for the Kansas Department of Corrections State Forfeiture Fund for the period of December 1, 2006 through December 1, 2007.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **SB 196**.
 The House adopts the conference committee report on **Substitute SB 453**.
 The House adopts the conference committee report on **SB 570**.
 The House adopts the conference committee report on **Substitute SB 485**.
 The House adopts the conference committee report on **SB 669**.
 Announcing the House concurs in Senate amendments to **HB 2926**.
 The House concurs in Senate amendments to **HB 2643** and requests the Senate to return the bill.
 The House concurs in Senate amendments to **HB 2689** and requests the Senate to return the bill.
 The House adopts the conference committee report on **HB 2123**.
 The House adopts the conference committee report on **HB 2186**.
 The House adopts the conference committee report on **HB 2343**.
 The House adopts the conference committee report on **HB 2642**.
 The House adopts the conference committee report on **HB 2700**.
 The House adopts the conference committee report on **HB 2727**.
 The House adopts the conference committee report on **HB 2858**.
 The House adopts the conference committee report on **Senate Substitute for HB 2916**.
 The House adopts the conference committee report on **Senate Substitute for HB 2923**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 32, SB 178, H Sub for SB 379, H Sub for Sub SB 391, Sub SB 453, Sub SB 485, SB 570, SB 669; S Sub for HB 2504**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 32**, 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 as House Substitute for Senate Bill No. 32, as follows:

On page 1, following line 30, by inserting the following:
 “(6) “Nondeploying parent” means the parent not subject to deployment, mobilization, temporary duty or unaccompanied tour orders from the military.”;
 Also on page 1, by striking all in lines 31 through 34 and inserting the following:
 “(b) The absence, relocation or failure to comply with a custody or parenting time order by a parent who has received deployment, mobilization, temporary duty or unaccompanied tour orders from the military, shall not, by itself, constitute a material change in circumstances warranting a permanent modification of a custody or parenting time order.
 (c) Any court order limiting previously ordered custodial or parenting time rights of a parent due to the parent’s deployment, mobilization, temporary duty or unaccompanied tour shall specify the deployment, mobilization, temporary duty or unaccompanied tour as the basis for the order and shall be entered by the court as a temporary order. Any such order shall further require the nondeploying parent to provide the court with 30 days advance written notice of any change of address and any change of telephone number.

(d) The court, on motion of the parent returning from deployment, mobilization, temporary duty or unaccompanied tour, seeking to amend or review the custody or parenting time order based upon such deployment, mobilization, temporary duty or unaccompanied tour, shall set a hearing on the matter that shall take precedence on the court's docket and shall be set within 30 days of the filing of the motion. Service on the nondeploying parent shall be at such nondeploying parent's last address provided to the court in writing. Such service, if otherwise sufficient, shall be deemed sufficient for the purposes of notice for this subsection. For purposes of this hearing, such nondeploying parent shall bear the burden of showing that reentry of the custody or parenting time order in effect prior to deployment, mobilization, temporary duty or unaccompanied tour is no longer in the best interests of the child.”;

And by relettering the remaining subsections accordingly;

On page 2, by striking all in lines 2 through 17;

And by relettering the remaining subsections accordingly;

Also on page 2, following line 32, by inserting the following:

“(h) Nothing in this section shall preclude a parent from petitioning for a modification of a custody or parenting time order based upon a material change in circumstances.

(i) Any order entered pursuant to this section shall provide that:

(1) The nondeploying parent shall reasonably accommodate the leave schedule of the parent subject to deployment, mobilization, temporary duty or unaccompanied tour orders;

(2) the nondeploying parent shall facilitate opportunities for telephonic and electronic mail contact between the parent subject to deployment, mobilization, temporary duty or unaccompanied tour orders and the child during the period of such deployment, mobilization, temporary duty or unaccompanied tour; and

(3) the parent subject to deployment, mobilization, temporary duty or unaccompanied tour shall provide timely information regarding such parent's leave schedule to the nondeploying parent. Willful violation of such order shall constitute contempt of court.”;

And by relettering the remaining subsection accordingly;

Also on page 2, by striking all in lines 36 through 43;

By striking all on pages 3 through 9;

On page 10, by striking all in lines 1 through 5;

And by renumbering the remaining sections accordingly;

On page 11, in line 13, by striking “and K.S.A. 2007 Supp. 60-1610 are” and inserting “is”;

In the title, in line 11, by striking “and K.S.A. 2007 Supp. 60-1610”; in line 12, by striking “sections” and inserting “section”;

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

MICHAEL O'NEAL

LANCE KINZER

JANICE L. PAULS

Conferees on part of House

JOHN VRATIL

TERRY BRUCE

GRETA GOODWIN

Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub for SB 32**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Waggle, Wilson, Wysong.
The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 178**, submits the following report:

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

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

By striking all on page 2 and inserting the following:

“Section 1. (a) This act shall be known and may be cited as the fire safety standard and firefighter protection act.

(b) If any provision of the fire safety standard and firefighter protection act is held to be unconstitutional, such holding shall not affect the validity of any remaining portion of the act.

Sec. 2. As used in this act:

(a) “Agent” means any person authorized by the director to purchase and affix stamps on packages of cigarettes.

(b) “Cigarette” means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and irrespective of tobacco or substance being flavored, adulterated or mixed with any other ingredient, if the wrapper is in greater part made of any material except tobacco.

(c) “Director,” “retail dealer,” “vending machine operator,” “sale” and “wholesale dealer” shall have the meanings ascribed thereto in K.S.A. 79-3301, and amendments thereto.

(d) “Manufacturer” means:

(1) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(3) any entity that becomes a successor of an entity described in paragraph (1) or (2).

(e) “Quality control and quality assurance program” means the laboratory procedures implemented to ensure that operator bias, systematic and non-systematic methodological errors and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values required by section 3, and amendments thereto, for all test trials used to certify cigarettes in accordance with this act.

(f) “Repeatability” means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

(g) “Sell” means to sell, or to offer or agree to do the same.

Sec. 3. (a) Except as provided in subsection (h), no cigarettes may be sold or offered for sale in this state or offered for sale or sold to any person located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the state fire marshal in accordance with section 4, and amendments thereto, and the cigarettes have been marked in accordance with section 5, and amendments thereto.

(b) (1) Testing of cigarettes shall be conducted in accordance with the American society of testing and materials (ASTM) standard E2187-04, “Standard Test Method for Measuring the Ignition Strength of Cigarettes.”

(2) Testing shall be conducted on 10 layers of filter paper.

(3) No more than 25% of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(4) The performance standard required by this section shall be applied only to a complete test trial.

(5) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the international organization for standardization (ISO) or other comparable accreditation standard required by the state fire marshal.

(6) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

(7) This section does not require additional testing if cigarettes are tested in a manner which is consistent with this act for any other purpose.

(8) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

(c) Each cigarette listed in a certification submitted pursuant to section 4, and amendments thereto, that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column, or 10 millimeters from the labeled end of the tobacco column for non-filtered cigarettes.

(d) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in subsection (b) shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (b)(3) of this section, the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to section 4, and amendments thereto. If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this act, and the state fire marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, then the state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under this act. All other applicable requirements of this section shall apply to the manufacturer.

(e) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the state fire marshal and the attorney general upon written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request shall be subject to a civil penalty not to exceed \$10,000 for each day after the sixtieth day that the manufacturer does not make such copies available.

(f) The state fire marshal may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187-04 and the performance standard in subsection (b)(3) of this section.

(g) The state fire marshal shall review the effectiveness of this section and report every three years to the legislature the state fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this act. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.

(h) The requirements of subsection (a) shall not prohibit: (1) A wholesale dealer, retail dealer or vending machine operator from selling their existing inventory of cigarettes on or after July 1, 2009, if the wholesale dealer, retail dealer or vending machine operator can establish that state tax stamps were affixed to such cigarettes prior to July 1, 2009, and if the wholesale dealer, retail dealer or vending machine operator can establish that the inventory was purchased prior to July 1, 2009, in comparable quantity to the inventory purchased during the same period of time in the prior year. In no event may a wholesale dealer, retail dealer or vending machine operator sell or offer for sale a cigarette in this state that does not comply with this act after July 1, 2010; or (2) the sale of cigarettes solely for the purpose of consumer testing. For purposes of this subsection, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

(i) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 4. (a) Each manufacturer shall submit to the state fire marshal a written certification attesting that: (1) Each cigarette listed in the certification has been tested in accordance with section 3, and amendments thereto; and (2) each cigarette listed in the certification meets the performance standard set forth in section 3, and amendments thereto.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) Brand or trade name on the package;
- (2) style, such as lights, ultra lights, or low tar;
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor, such as menthol, chocolate or other, if applicable;
- (6) filter or non-filter;
- (7) package description, such as soft pack, box or other;
- (8) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
- (9) the date that the testing was conducted.

(c) For the purpose of compliance with this section, the state fire marshal shall accept completed certifications and make the completed certifications available to the attorney general.

(d) Each cigarette certified under this section shall be recertified every three years. Initial cigarette certifications may be made at any time. Subsequent certifications shall be made before July 31 of the subsequent certification year.

(e) Every manufacturer shall certify cigarettes within the state before the manufacturer, retail dealer, wholesale dealer or vending machine operator legally may offer a manufacturer's cigarette for sale within the state. In order to obtain and maintain a listing on the directory created under subsection (i), a manufacturer shall consent to the jurisdiction of the Kansas courts for the purpose of enforcement of this act and shall appoint a registered agent for service of process in this state and shall identify the agent to the secretary of state.

(f) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a fee of \$250. The state fire marshal may adjust such fee annually, by rule and regulation, to ensure that such fee defrays the actual cost of processing, testing enforcement, administration and oversight activities required by law.

(g) There is hereby established in the state treasury a separate, nonlapsing fund to be known as the fire safety standard and firefighter protection act enforcement fund which shall be administered by the state fire marshal.

(h) If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this act, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in section 3, and amendments thereto, and maintains records of that retesting as required by section 3, and amendments thereto. Any altered

cigarette which does not meet the performance standard set forth in section 3, and amendments thereto, may not be sold in this state.

(i) Not later than July 31, 2009, the attorney general shall develop a directory of all certified cigarettes under this act. The directory shall be updated as necessary and shall be posted on the attorney general's website. Unless a wholesale dealer, retail dealer or vending machine operator has actual knowledge that cigarettes do not comply with this act, the wholesale dealer, retail dealer or vending machine operator shall consider any cigarette listed on the directory posted on the website to be lawful to sell in this state for the purpose of compliance with this act by such wholesale dealer, retail dealer or vending machine operator.

(j) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 5. (a) Cigarettes that are certified by a manufacturer in accordance with section 4, and amendments thereto, shall be marked with the letters "FSC", which signifies fire standards compliant, appearing in eight-point type or larger and permanently printed, stamped, engraved or embossed on the package at or near the UPC code. A manufacturer certifying cigarettes in accordance with section 4, and amendments thereto, shall provide a copy of the certifications to any wholesale dealer and its agents to which the manufacturer sells cigarettes. Any wholesale dealer, agent, retail dealer or vending machine operator shall permit the state fire marshal, the director, the attorney general, and employees thereof, to inspect cigarette packaging marked in accordance with this section.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 6. (a) A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, that do not meet the performance standard of section 3, and amendments thereto, are not listed on the directory as required by section 4, and amendments thereto, or are not marked in accordance with section 5, and amendments thereto, shall be subject to a civil penalty not to exceed \$500 for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any such person or entity exceed \$100,000 during any thirty-day period.

(b) A retail dealer or vending machine operator who knowingly sells or offers to sell cigarettes that are not listed on the directory as required by section 4, and amendments thereto, or are not marked in accordance with section 5, and amendments thereto, shall be subject to a civil penalty not to exceed \$500 for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer or vending machine operator exceed \$25,000 for sales or offers to sell during any thirty-day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to section 4, and amendments thereto, shall be subject to a civil penalty of at least \$75,000 and not to exceed \$250,000 for each such false certification.

(d) Any person violating any other provision in this act shall be subject to a civil penalty for a first offense not to exceed \$1,000, and for a subsequent offense subject to a civil penalty not to exceed \$5,000 for each such violation.

(e) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by section 3, and amendments thereto, shall be considered contraband and subject to forfeiture. Cigarettes forfeited pursuant to this section shall be destroyed. Prior to the destruction of any cigarette forfeited pursuant to this subsection, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(f) In addition to any other remedy provided by law, the state fire marshal or attorney general may file an action in the district court for a violation of this act, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this act, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this act or of rules or regulations adopted under this act constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

(g) Whenever any law enforcement personnel or duly authorized representative of the state fire marshal, director, or attorney general shall discover any cigarettes that have not been marked in the manner required by section 5, and amendments thereto, or for which a certification has not been filed as required by section 4, and amendments thereto, such personnel are hereby authorized and empowered to seize and take possession of such cigarettes with or without process or warrant. Such cigarettes shall be turned over to the division of taxation, and shall be subject to forfeiture proceedings. Cigarettes seized pursuant to this section shall be destroyed. Prior to the destruction of any cigarette seized pursuant to this subsection, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarettes.

(h) Any action taken pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(i) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 7. (a) The director, in the regular course of conducting inspections of wholesale dealers, agents, retail dealers or vending machine operators, as authorized under the Kansas cigarette and tobacco products act or other state statutes, rules, or regulations, may inspect such cigarettes to determine if the cigarettes are marked as required by section 5, and amendments thereto. If the cigarettes are not marked as required, the director may seize such contraband with or without process or warrant and shall notify the state fire marshal.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 8. (a) To enforce the provisions of this act, the attorney general, the director and the state fire marshal, their duly authorized representatives and other law enforcement personnel are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, stored or offered for sale, is hereby directed and required to give the attorney general, the director and the state fire marshal, their duly authorized representatives and other law enforcement personnel the means, facilities and opportunity for the examinations authorized by this section.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 9. (a) There is hereby established in the state treasury a separate, nonlapsing fund to be known as the cigarette fire safety standard and firefighter protection act fund which shall be administered by the state fire marshal. The fund shall consist of all moneys recovered as penalties under section 6, and amendments thereto. The moneys shall be deposited to the credit of the fund and in addition to any other money made available for such purpose, shall be made available to the state entity responsible for administering the provisions of this act to support fire safety and prevention programs.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 10. (a) Nothing in this act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 3, and amendments thereto, if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 11. Prior to July 1, 2009, the state fire marshal may promulgate rules and regulations necessary to effectuate the purposes of this act. Such rules and regulations shall not become effective until July 1, 2009. The state fire marshal, director and attorney general may take any other action deemed necessary to prepare for the implementation and enforcement of the fire safety standard and firefighter protection act.

Sec. 12. Notwithstanding any other provision of law, a city or county shall not enact nor enforce any ordinance, resolution or other regulation conflicting with, or preempted by, any provision of this act or with any policy of this state expressed by this act, whether that policy be expressed by inclusion of a provision in this act or by exclusion of that subject from this act.

Sec. 13. The provisions of the fire safety and firefighter protection act shall become null and void if a federal reduced cigarette ignition propensity standard that preempts such act is adopted and becomes effective.

Sec. 14. 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 13 and inserting the following: “AN ACT concerning reduced ignition propensity cigarettes.”;

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

ARLEN H. SIEGFREID
STEVE HUEBERT
MICHAEL J. PETERSON
Conferees on part of House

PETE BRUNGARDT
ROGER P. REITZ
MARK S. GILSTRAP
Conferees on part of Senate

Senator Brungardt moved the Senate adopt the Conference Committee Report on **SB 178**.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Bruce, Huelskamp, Pyle.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote “aye” in support of the Conference Committee’s Report on **SB 178**. My understanding is that this new law will not require any manufacturer to develop a special cigarette for Kansas. Manufacturers will be able to sell in Kansas the same “fire safe” cigarettes already being sold in many states; including some of our country’s largest, like California and New York. — DAVID HALEY

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **House Substitute for SB 379**, 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 3, in line 39, preceding “shall”, where it appears for the first time, by inserting “is limited to the extent of the coverage and dollar limits of insurance the promisor has agreed to obtain for the benefit of the other party as promisee. Such indemnity obligation”;

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

MICHAEL O’NEAL
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN

Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub SB 379**.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Journey.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 391**, 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 as House Substitute for Substitute for Senate Bill No. 391, as follows:

On page 1, in line 35, by striking all after the semicolon; by striking all in line 36; in line 37, by striking all preceding the period and inserting “(6) the establishment of a proprietary interconnection agreement with a provider or proprietary peering standards by a provider, the purpose of which is to act as a barrier to peering or interconnection of providers to the KAN-ED network; or (7) any financial fee or obligation required to connect a peered provider network to the KAN-ED network which is unusual or not customary. The provisions of clause (6) shall not preclude the board from establishing technical standards for operation and maintenance of the network as required by subsection (c)(1) of K.S.A. 2007 Supp. 75-7224, and amendments thereto”;

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

JOE MCLELAND
MICHAEL O'NEAL
TOM SAWYER

Conferees on part of House

JAY SCOTT EMLER
KARIN BROWNLEE
JIM BARONE

Conferees on part of Senate

Senator Emler moved the Senate adopt the Conference Committee Report on **H Sub for Sub SB 391**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 485**, 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 10, after line 23, by inserting the following:

“Sec. 8. K.S.A. 2007 Supp. 68-521 is hereby amended to read as follows: 68-521. (a) The board of county commissioners before awarding any contract for the construction, surfacing, repairing or maintaining of any road as provided in K.S.A. 68-520, and amendments thereto, when the county engineer’s estimated cost of such improvement is more than ~~\$10,000~~ \$25,000, shall have the approved plans and specifications which have been adopted by order of the board for such work filed in the county clerk’s office or in some other county office designated by the board at least 20 days prior to the time of the letting.

The county clerk or some other county officer designated by the board shall give not less than 20 days’ notice of the letting by publication in at least two consecutive weekly issues of the official county paper, the first publication of such notice to be not less than 20 days prior to such letting. The notice shall specify with reasonable minuteness the character of the improvement contemplated, where it is located, the kind of material to be used, the hour, date and place of letting of such contract, when the work is to be completed, and invite sealed proposals for the same. Such other notice may be given as the board may deem proper. All bids shall be made on the proposal blanks furnished by the county, signed by the bidder, sealed and delivered, or sent by mail, by the bidder, or the agent or attorney thereof, to the county clerk or to some other county officer designated by the board. The letting of all contracts shall be conducted in such manner as to give free, open competition, and all qualified bidders, shall be given an equal opportunity to bid upon the plans and specifications on file. Each bidder shall be required to accompany the submitted bid with a bid surety in an amount equal to 5% of the bid amount in the form prescribed by the board as a guarantee that, if the contract is awarded to the bidder, the bidder will enter into the contract with the board. If a bidder fails to enter into the contract when awarded to the bidder, the bid surety shall become the property of the county as its liquidated damages and shall be paid to the county treasurer for credit to the general fund of the county, and the board may award the contract to the next lowest responsible bidder. The bids shall be opened publicly by the board or a designee thereof at the place, date and hour named in the advertising notice, and all bids shall be considered, and accepted or rejected.

In case the work is let at such public letting or thereafter, the contract shall be awarded to the lowest responsible bidder, or the board, if it deems the proposals too high, may reject all bids, and readvertise the work as before. No such contract shall be let at an amount exceeding 110% of the county engineer’s estimated cost of the work. No such contract shall be considered as awarded unless the contractor shall within 21 days after the letting enter into contract and shall give the bond required by K.S.A. 60-1111, and amendments thereto, and a performance bond to the county in a penal sum equal to the amount of the contract price, conditioned upon the faithful performance of the contract, payable to the county upon failure to comply with the terms of the contract. The contractor shall file with the county clerk the bonds, which shall be approved by the chairperson of the board and the county attorney by their signatures indorsed thereon.

(b) The provisions of subsection (a) shall not apply to contracts for the expenditure of county moneys for the reconstruction or repair of a road if:

- (1) The road has been damaged or destroyed as a result of a disaster;
- (2) the governor has declared the county, or that part of the county in which the road is located, a disaster area;
- (3) the board of county commissioners finds that a hardship would result if the road is not immediately reconstructed or repaired;
- (4) the board of county commissioners has obtained an estimate of the cost of the reconstruction or repair of the road from the county engineer. If there is no county engineer, the board shall obtain such estimate from the Kansas department of transportation; and
- (5) the contract for the reconstruction or repair of the road is awarded within 60 days of the governor’s declaration required by paragraph (2).

(c) The county attorney or county counselor shall meet with and advise the board of county commissioners in all matters pertaining to letting and making of all contracts under this act. The board may make partial payments, on the written estimate of its county engineer, upon any contract work as the same progresses, but not more than 95% of the estimate of the materials furnished and work done, or of the contract price, shall be paid in advance

of the full and satisfactory completion of the contract. Final payment shall not be made on any such contract until the county engineer has inspected the work and certified in writing that it has been properly done and completed in accordance with the contract, plans and specifications, and the county engineer's certificate to that effect has been filed in the office of the county clerk or some other county officer designated by the board.”;

And by renumbering the remaining sections accordingly;

Also on page 10, in line 24, by striking “8” and inserting “(9)”; in line 43, by striking “or design build team”;

On page 11, by striking all in lines 18 through 24;

And by relettering the remaining subsections accordingly;

On page 12, by striking all in lines 23 through 37;

And by relettering the remaining subsections accordingly;

Also on page 12, in line 43, by striking “comprised of” and inserting “appointed by the”; also in line 43, by striking “members”;

On page 13, by striking all in lines 21 through 23; in line 27, by striking “or design-build”; in line 29, by striking “and design-build”; in line 35, by striking “shall” and inserting “may only”;

On page 14, in line 20, by striking “methods” and inserting “method”; in line 33, by striking “but” and inserting “or”; in line 34, by striking “schematic design phase” and inserting “initiation of the project”;

On page 17, by striking all in lines 19 through 43;

By striking all on pages 18 and 19;

On page 20, by striking all in lines 1 through 37;

On page 21, in line 11, by striking “is” and inserting “and K.S.A. 2007 Supp. 68-521 are”;

In the title, in line 12, after “ACT” by inserting “concerning”; in line 14, by striking “construction of buildings” and inserting “buildings and other construction projects”; in line 15, after “and” by inserting “K.S.A. 2007 Supp. 68-521 and”; also in line 15, by striking “section” and inserting “sections”;

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

SHARON SCHWARTZ

LEE TAFANELLI

BILL FEUERBORN

Conferees on part of House

CAROLYN MCGINN

MARK TADDIKEN

ANTHONY HENSLEY

Conferees on part of Senate

Senator McGinn moved the Senate adopt the Conference Committee Report on **Sub SB 485**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 570**, submits the following report:

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

On page 13, after line 38, by inserting:

“New Sec. 4. As used in sections 4 through 8, and amendments thereto:

(a) "Broadband" means any synchronous or asynchronous transmission technology capable of speeds of at least 200 kilobits per second in both directions to and from customer and provider.

(b) "Census tract" means a tract identified on the most recent official United States decennial census maps.

(c) "Commission" means the state corporation commission.

(d) "Government" means the state and any department, agency, authority, institution or instrumentality thereof, any county, township, city, school district or other political or taxing subdivision of the state and any other not-for-profit entity primarily funded by appropriations from tax revenues.

(e) "Potential broadband customer" means any residential, commercial or government customer that can receive broadband service through existing telephone or cable lines and has subscribed to such service, has elected not to subscribe to such service or cannot subscribe to such service because such service is not provided.

(f) "Provider" means a provider of wireless, wireline, cable-modem and other technological means of providing high speed internet access service to persons who are domiciled in Kansas.

(g) "Underserved rural areas" means that no more than 15% of potential broadband customers in a census tract are capable of receiving broadband of at least 386 kilobits per second in both directions in accordance with the provisions of sections 5 through 8, and amendments thereto.

New Sec. 5. On or before October 1, 2008, subject to the provisions of section 7, and amendments thereto, each provider of broadband service shall submit to the commission information presenting the geographic areas where customers are capable of receiving broadband service from such provider. The commission shall not require subsequent annual reports from providers who document the geographic areas where customers are capable of receiving broadband. This section shall apply to all providers that provide broadband service, including satellite transmission.

New Sec. 6. (a) On or before January 15, 2009, and annually thereafter, subject to the provisions of section 7, and amendments thereto, the commission shall report to the legislature on broadband service being provided in the state of Kansas. Such report shall include the following information:

(1) A report by census tract or other identifiable geographic unit indicating whether broadband service is available and the number of providers that offer service to customers in each census tract;

(2) beginning with the commission's report in 2010, a report by census tract of the change in: (A) The number of broadband providers; and (B) the geographic area or census tract where broadband service is available.

(b) The commission shall maintain the information provided by each provider pursuant to section 5, and amendments thereto, as confidential and shall report only the aggregated information by census tract to the legislature. In maintaining the information, the commission shall adhere to the confidentiality provisions in K.S.A. 66-1220a, and amendments thereto.

(c) The commission, after consulting with broadband providers, may adopt rules and regulations as necessary to establish the form and manner in which the provider information shall be submitted and to fulfill all other requirements of the commission under this act.

(d) The commission shall, in addition to those reports required by subsection (a), on or before January 15, 2008, and annually thereafter, report to the legislature the names of the broadband service providers that fail to comply with the reporting requirements of section 5, and amendments thereto.

New Sec. 7. In the event the federal government or any federal agency implements a national program to collect information regarding broadband service deployment, the provisions of section 5 and subsections (a), (c) and (d) of section 6, and amendments thereto, shall no longer be effective, and the commission shall collect such broadband service data and report such data to the legislature in a form and manner that is in conformance with such federal program.

New Sec. 8. Nothing in sections 4 through 7, and amendments thereto, shall be construed as authorizing the commission to regulate the provision of broadband service in any manner not already otherwise authorized pursuant to federal or state law.

New Sec. 9. The provisions of sections 4 through 8, and amendments thereto, shall expire on July 1, 2013.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 11, after the semicolon by inserting “relating to broadband development.”;

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

CARL DEAN HOLMES

ROBERT OLSON

ANNIE KUETHER

Conferees on part of House

JAY SCOTT EMLER

PAT APPLE

JANIS K. LEE

Conferees on part of Senate

Senator Emler moved the Senate adopt the Conference Committee Report on **SB 570**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 669**, 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 17, by striking “5” and inserting “6”; in line 32, by striking “this section” and inserting “the virtual school act”;

On page 3, in line 2, by striking “103.5%” and inserting “105%”; in line 3, by striking “by the virtual school”; in line 6, by striking “4.65%” and inserting “25%”; by striking all in lines 8 through 18; following line 18 by inserting:

“(C) add any amount determined under section 6, and amendments thereto; and”;

Also on page 3, in line 19, by striking “(E)” and inserting “(D)”; in line 20, by striking “(D)” and inserting “(C)”;

On page 4, following line 13 by inserting:

“New Sec. 6. (a) As used in this section:

(1) “Pupil” means a pupil who is a resident of and enrolled, on a full-time basis, in a school district.

(2) “School district” means a school district which does not offer advanced placement courses and which is either more than 200 square miles in area or has an enrollment of at least 260 pupils and does not offer advance placement courses.

(b) If a pupil is enrolled in at least one advanced placement course provided by a virtual school, the school district offering the virtual school shall be paid an amount equal to 8% of the amount of base state aid per pupil for such pupil as additional virtual school state aid. Such state aid shall be paid in each semester in which a pupil is enrolled in at least one advanced placement course provided by a virtual school.”;

And by renumbering the remaining sections accordingly;

Also on page 4, by striking all in line 18; following line 18 by inserting:

“(2) “School district” means U.S.D. No. 251, north Lyon county; U.S.D. No. 252, southern Lyon county; U.S.D. No. 253, Emporia; and U.S.D. No. 284, Chase county.”;

On page 6, in line 13, before "Except" by inserting "A pupil enrolled in a district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$ that the pupil's attendance at the non-virtual school bears to full-time attendance."; in line 37, after "institution", by inserting "or a psychiatric residential treatment facility"; also in line 37, by striking all after the period; by striking all in lines 38 through 40;

On page 8, in line 5, by striking "6 or 7" and inserting "7 or 8";

On page 9, by striking all in line 42 and inserting the following:

"Sec. 9. K.S.A. 2007 Supp. 72-8187 is hereby amended to read as follows: 72-8187. (a) In each school year, to the extent that appropriations are available, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility is eligible to receive a grant of state moneys in an amount to be determined by the state board of education.

(b) In order to be eligible for a grant of state moneys provided for by this section, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility shall submit to the state board of education an application for a grant and shall certify the amount expended, and not reimbursed or otherwise financed, in the school year for the services provided. The application and certification shall be prepared in such form and manner as the state board shall require and shall be submitted at a time to be determined and specified by the state board. Approval by the state board of applications for grants of state moneys is prerequisite to the award of grants.

(c) Each school district which is awarded a grant under this section shall make such periodic and special reports of statistical and financial information to the state board as it may request.

(d) All moneys received by a school district under authority of this section shall be deposited in the general fund of the school district and shall be considered reimbursement of the district for the purpose of the school district finance and quality performance act.

(e) The state board of education shall approve applications of school districts for grants, determine the amount of grants and be responsible for payment of grants to school districts. In determining the amount of a grant which a school district is eligible to receive, the state board shall compute the amount of state financial aid the district would have received on the basis of enrollment of pupils residing at the Flint Hills job corps center, housed at a psychiatric residential treatment facility or confined in a juvenile detention facility if such pupils had been counted as two pupils under the school district finance and quality performance act and compare such computed amount to the amount certified by the district under subsection (b). The amount of the grant the district is eligible to receive shall be an amount equal to the lesser of the amount computed under this subsection or the amount certified under subsection (b). If the amount of appropriations for the payment of grants under this section is insufficient to pay in full the amount each school district is determined to be eligible to receive for the school year, the state board shall prorate the amount appropriated among all school districts which are eligible to receive grants of state moneys in proportion to the amount each school district is determined to be eligible to receive.

(f) On or before July 1 of each year, the secretary of social and rehabilitation services shall submit to the Kansas department of education a list of facilities which have been certified and licensed as psychiatric residential treatment facilities.

(g) As used in this section:

(1) "Enrollment" means the number of pupils who are: (A) Residing at the Flint Hills job corps center ~~or who are~~ confined in a juvenile detention facility ~~and~~ *or residing at a psychiatric residential treatment facility*; and (B) for whom a school district is providing educational services on September 20, on November 20, or on April 20 of a school year, whichever is the greatest number of pupils;

(2) "juvenile detention facility" means any public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail; and

(3) “psychiatric residential treatment facility” means a facility which provides psychiatric services to individuals under the age of 21 and which conforms with the regulations of the centers for medicare/medicaid services, is licensed by the Kansas department of health and environment and is certified by the Kansas department of social and rehabilitation services pursuant to subsection (f).

Sec. 3. K.S.A. 2007 Supp. 72-6407 and 72-8187 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 13, following “72-6407” by inserting “and 72-8187”; in line 14, by striking “section” and inserting “sections”;

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

CLAY AURAND

DEENA HORST

SUE STORM

Conferees on part of House

JEAN KURTIS SCHODORF

JOHN VRATIL

JANIS K. LEE

Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 669**.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, Pyle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2504**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2504, as follows:

On page 1, by striking all in lines 13 through 43;

By striking all on page 2 and inserting the following:

“Section 1. As used in this act:

(a) (1) “Amusement ride” means any mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include, but not be limited to:

(A) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;

(B) equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; and

(C) equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride.

(2) “Amusement ride” does not include:

(A) Games, concessions and associated structures;

(B) any single passenger coin-operated ride that: (i) Is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator; or

(C) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climb-

ers, slides, trampolines, moon walks and other inflatable equipment and physical fitness devices.

(b) "Certificate of inspection" means a certificate, signed and dated by a qualified inspector, showing that an amusement ride has satisfactorily passed inspection by such inspector.

(c) "Department" means the department of labor.

(d) "Nondestructive testing" means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

(1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;

(2) assess integrity, properties and composition; and

(3) measure geometrical characters.

(e) "Operator" means a person actually engaged in or directly controlling the operations of an amusement ride.

(f) "Owner" means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state.

(g) "Parent or guardian" means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

(h) (1) "Patron" means any individual who is:

(A) Waiting in the immediate vicinity of an amusement ride to get on the ride;

(B) getting on an amusement ride;

(C) using an amusement ride;

(D) getting off an amusement ride; or

(E) leaving an amusement ride and still in the immediate vicinity of the ride.

(2) "Patron" does not include employees, agents or servants of the owner while engaged in the duties of their employment.

(i) "Person" means any individual, association, partnership, corporation, limited liability company, government or other entity.

(j) "Qualified inspector" means a person who holds a current certification or other evidence of qualification to inspect amusement rides, issued by a program specified by rules and regulations adopted under section 3, and amendments thereto.

(k) "Secretary" means the secretary of labor.

(l) "Serious injury" means an injury that results in:

(1) Death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;

(2) a compound fracture; or

(3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

(m) "Sign" means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

Sec. 2. (a) The secretary shall adopt rules and regulations specifying programs that issue certification or other evidence of qualification to inspect amusement rides and that the secretary determines require education, experience and training at least equivalent to those required on the effective date of this act for a level 1 certification by the national association of amusement ride safety officials. The secretary shall develop an inspection check list which shall be posted on the department web site.

(b) No amusement ride shall be operated in this state unless such ride has a valid certificate of inspection. An amusement ride erected at a permanent location in this state shall be self-inspected by a qualified inspector at least every 12 months. An amusement ride erected at a temporary location in this state shall have been self-inspected by a qualified inspector within the preceding 30 days. The certificate of an inspection required by this

subsection shall be signed and dated by the inspector and shall be available to any person contracting with the owner for the amusement ride's operation. In addition, a visible inspection decal or other evidence of inspection shall be posted in plain view on or near the amusement ride, in a location where it can easily be seen.

(c) The secretary shall conduct random inspections of amusement rides erected both at permanent locations and at temporary locations. A warning citation for violation of this act shall be issued against any owner or operator for a first violation but no criminal proceeding shall be brought.

Sec. 3. The owner of an amusement ride shall retain at all times current maintenance and inspection records for such ride. Such records shall be available to any person contracting with the owner for the amusement ride's operation.

Sec. 4. No amusement ride shall be operated in this state unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to those of the American society for testing and materials that are in effect on the effective date of this act.

Sec. 5. (a) No amusement ride shall be operated in this state unless the operator has satisfactorily completed training that includes, at a minimum:

- (1) Instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;
- (2) demonstration of physical operation of the ride; and
- (3) supervised observation of the operator's physical operation of the ride.

(b) No amusement ride shall be operated in this state unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of such training, signed and dated by the trainer, is available to any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

Sec. 6. No amusement ride shall be operated in this state unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

Sec. 7. (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

- (b) Each patron of an amusement ride has a duty to:
- (1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;
 - (2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;
 - (3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;
 - (4) engage all safety devices that are provided;
 - (5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee; and
 - (6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee.

(c) (1) A patron, or a patron's parent or guardian on a patron's behalf, shall report in writing to the owner any injury sustained on an amusement ride before leaving the premises, including:

- (A) The name, address and phone number of the injured person;
 - (B) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
 - (C) the cause of the injury, if known; and
 - (D) the names, addresses and phone numbers of any witnesses to the incident.
- (2) If a patron, or a patron's parent or guardian on a patron's behalf, is unable to file a report because of the severity of the patron's injuries, the patron or the patron's parent or guardian on the patron's behalf shall file the report as soon as reasonably possible.
- (3) The failure of a patron, or the patron's parent or guardian on a patron's behalf, to report an injury under this subsection shall have no effect on the patron's right to commence a civil action.

(d) Any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this act.

Sec. 8. Any person contracting with an owner for the amusement ride's operation shall ensure that:

- (a) Inspection certificates required by section 2, and amendments thereto, are available;
- (b) maintenance and inspection records required by section, 3 and amendments thereto, are available; and
- (c) safety instructions for the ride are posted as required by section 6 and amendments thereto.

Sec. 9. Whenever a serious injury results from the operation of an amusement ride:

- (a) Operation of the ride shall immediately be discontinued;
- (b) operation of the ride shall not be resumed until it has been inspected and the qualified inspector has approved resumption of operation; and
- (c) the owner, within 30 days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

Sec. 10. (a) It is a class B misdemeanor for an owner or operator of an amusement ride knowingly to operate, or cause or permit to be operated, any amusement ride in violation of this act.

(b) It is a class C misdemeanor knowingly to violate the provisions of section 8 and amendments thereto.

(c) Each day a violation continues shall constitute a separate offense.

Sec. 11. The attorney general, or the county or district attorney in a county in which an amusement ride is located or operated, may apply to the district court for an order enjoining operation of any amusement ride operated in violation of this act.

Sec. 12. The governing body of any city or county may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the standards established by this act.

Sec. 13. This act shall take effect and be in force from and after January 1, 2009, and its publication in the statute book.”;

In the title, by striking all in lines 9 and 10 and inserting “AN ACT concerning amusement rides; relating to inspection and regulation thereof; prohibiting certain acts and providing penalties and remedies for violations.”;

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

PETE BRUNGARDT
 ROGER P. REITZ
 MARK GILSTRAP
Conferees on part of Senate

ARLEN H. SIEGFRIED
 STEVE HUEBERT
 MICHAEL J. PETERSON
Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **S Sub for HB 2504**.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, Ostneyer, Pyle, Steineger.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Wagle, Betts, Donovan, Journey, McGinn, Petersen and Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1860—

A RESOLUTION congratulating and commending the Wichita Southeast High School Golden Buffalo basketball team for attaining and performing at a high level of excellence during the 2007-2008 school year.

WHEREAS, During the 2007-2008 basketball season, the Wichita Southeast men's basketball team won the Kansas State High School Activity Association Class 6A State Basketball Tournament championship, defeating Lawrence High School by a score of 88-67 in the championship game. Additionally, the Golden Buffs won the 6A sub-state championship, the Wichita City League regular season championship, and the Valley Center mid-season January Jam Tournament; and

WHEREAS, This is the fourth state title earned by the Golden Buffaloes, and the third state championship in the past 10 years; and

WHEREAS, The head coach for the Wichita Southeast men's basketball team is Carl Taylor. Coach Taylor is known not only for winning basketball games, but also for developing young men, holding them accountable in the classroom and in the community. His teams are known for their tenacious defense and explosive offense, but have also gained distinction for their civic and academic achievements; and

WHEREAS, Coach Taylor has earned the distinction of being the coach with the most wins in the history of the Wichita City League, a league known for basketball excellence. This year's state title is his third in 16 years as the Southeast head coach and fourth overall. His overall victory total is 263 games as a head coach; and

WHEREAS, Coach Taylor often deflects credit to his assistant coaches and players. This year, the Southeast basketball staff included assistant coaches: Marvin Coleman, Ricardo Harris, Jeff Lantz and Alan Hobson; and

WHEREAS, The Wichita Southeast High School men's basketball team members are: seniors Michael Hammond, Adonis Gantt, Cortez Barnes, Taylor Salome, D'Andre Tomlin and Jordan Cyphers; juniors Deontae Hayden, Joe Mitchell, Cecil Shaw, Deante Dubose and Nathan Duff; and sophomore Joseph Randle; and

WHEREAS, Other members of the Southeast men's basketball community include team managers Devin Hayes, Phillip Ilbiro and Jonathan Thomas; head trainer Robin Priest; athletic director Mark Lamb; principal Leroy Parks; and assistant principals Angela Brown, Fred Crayton, Buddy Dooley and Eric Filippi: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Wichita Southeast men's basketball team be congratulated and commended for continuing an outstanding basketball tradition by winning the Kansas State High School Activities Association Class 6A state basketball championship; and

Be it further resolved: That the Secretary of the Senate provide 17 enrolled copies of this resolution to Senator Wagle for presentation to the team and its coaches.

On emergency motion of Senator Wagle **SR 1860** was adopted unanimously.

Members of the team and their coaches were introduced and recognized with a standing ovation.

REPORT ON ENGROSSED BILLS

SB 23 reported correctly re-engrossed April 30, 2008.

REPORT ON ENROLLED BILLS

SR 1856, SR 1857, SR 1858, SR 1859 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 1, 2008.

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

AFTERNOON SESSION

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 113**, 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 as House Substitute for Senate Bill No. 113, as follows:

On page 15, in line 2, after the period by inserting "In the case of an audit of the records of a pharmacy by a managed care company, insurance company, third party payor or the representative of the managed care company, insurance company or third party payor, the period covered by the audit shall not exceed two years from the date the claim was submitted to or adjudicated or as otherwise provided by state or federal law."; after line 10, by inserting the following:

"Sec. 3. K.S.A. 2007 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) "NAIC" means the national association of insurance commissioners.

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2006~~ 2007.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Sec. 4. K.S.A. 40-202 is hereby amended to read as follows: 40-202. Nothing contained in this code shall apply to:

(a) Grand or subordinate lodges of any fraternal benefit society which admits to membership only persons engaged in one or more hazardous occupations in the same or similar line of business or to fraternal benefit societies as defined in and organized under article 7 of chapter 40 of the Kansas Statutes Annotated and amendments thereto, unless they be expressly designated;

(b) the employees of a particular person, firm, or corporation;

(c) mercantile associations which simply guarantee insurance to each other in the same lines of trade and do not solicit insurance from the general public;

(d) the Swedish Mutual Aid Association of Rapp, Osage county, Kansas;

(e) the Scandia Mutual Protective Insurance Company, of Chanute, Kansas;

(f) the Seneca and St. Benedict Mutual Fire Insurance Company of Nemaha county, Kansas;

(g) the mutual insurance system practiced in the Mennonite church, in accordance with an old custom, either by the congregation themselves or by special associations, of its members in Kansas;

(h) the Kansas State High-School Activities Association;

(i) the Mutual Aid Association of the Church of the Brethren; or

(j) a voluntary noncontractual mutual aid arrangement ~~founded on or before December 31, 1982~~, whereby the needs of participants are announced and accommodated through subscriptions to a monthly publication.

Sec. 5. K.S.A. 40-2,125 is hereby amended to read as follows: 40-2,125. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;

(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a *civil* penalty of up to ~~\$500~~ \$1,000, for each violation or act, along with an additional penalty of up to ~~\$100~~ \$500 for each week thereafter that such report or other information is not provided to the commissioner.

(c) If the commissioner makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or the public interest will be irreparably harmed by delay in issuing an order under subsection (a)(3), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502 and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536 and amendments thereto. Upon the entry of such an order, the commissioner shall promptly notify the person subject to the order that: (1) It has been entered, (2) the reasons therefor and (3) that upon written request within 15 days after service of the order the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing

is requested or ordered, the commissioner, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order.

(d) For purposes of this section:

(1) "Person" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society and any other legal entity engaged in the business of insurance, ~~or any person purchasing an interest in a life insurance policy which is licensed pursuant to K.S.A. 40-2,141 and amendments thereto,~~ rating organization, third party administrator, nonprofit dental service corporation, nonprofit medical and hospital service corporation, automobile club, premium financing company, health maintenance organization, insurance holding company, mortgage guaranty insurance company, risk retention or purchasing group, prepaid legal and dental service plan, captive insurance company, automobile self-insurer or reinsurance intermediary. The term "person" shall not include insurance agents licensed pursuant to K.S.A. 40-241 or 40-246, and amendments thereto, insurance brokers licensed pursuant to K.S.A. 40-3701 et seq., and amendments thereto, or employees of licensed agents or brokers *and brokers as such terms are defined in K.S.A. 2007 Supp. 40-4902 and amendments thereto.*

(2) "Commissioner" means the commissioner of insurance of this state.

Sec. 6. K.S.A. 2007 Supp. 40-433 is hereby amended to read as follows: 40-433. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued by an insurance company organized under the laws of the state of Kansas on its employees and agents, which agents for the purpose of this act only shall be deemed employees, the beneficiaries under such policies to be persons designated by each insured, or a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, both subject to the following requirements: (a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials. (b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by the employer, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribution. A policy on which no part of the premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at least two employees at date of issue. (d) The amounts of insurance under the policy shall be based upon some plan, precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges shall insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. (d) The amount of insurance on the life of any debtor shall at no time, ~~under one or more policies, exceed the amount owed by that debtor which is repayable in installments to the creditor, or \$100,000, whichever is less.~~ (e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements: (a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy shall cover at least 25 members at date of issue.

(d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established in this state by two or more employers if a majority of the employees to be insured of each employer are located within the state, or to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements: (a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for

insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. (b) The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured persons. The policy shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at date of issue at least 100 persons and not less than an average of five persons per employer unit. (d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

(e) The requirements of paragraphs (b) and (d) of this subsection governing employer contributions and amounts of insurance shall not apply to a voluntary term life insurance policy issued on a group basis.

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

(6) Any policy issued pursuant to this section may be extended to insure the employees against loss due to the death of their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. If any part of the premium is to be derived from funds contributed by the insured employees, the insurance with respect to spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents and their spouse's parents may be placed in force only if at least 75% of the then eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, shall be insured with respect to their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents.

(b) The amounts of insurance shall be based upon some plan precluding individual selection either by the employees or by the policyholder, or employer and shall not exceed with respect to any spouse, child or parent 50% of the insurance on the life of such insured employee.

(c) Upon termination of the insurance with respect to the spouse of an employee by reason of the employee's termination of employment or death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on such spouse's life as is provided for the employee under K.S.A. 40-434 and amendments thereto.

(d) Notwithstanding the provisions of K.S.A. 40-434 and amendments thereto only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

(e) The requirements of paragraphs (a) and (b) of this subsection governing participation, contribution by an employer and amounts of insurance for dependents shall not apply to a voluntary term life insurance policy issued on a group basis.

(7) A policy may be issued to any other group which the commissioner of insurance finds is the proper subject of a group life insurance policy or contract. Any such group shall be subject to any appropriate conditions or provisions relating thereto which the commissioner may establish or require, consistent with the provisions of this act, and such conditions and provisions shall be included in the policy or contract.

Sec. 7. K.S.A. 40-22a07 is hereby amended to read as follows: 40-22a07. (a) (1) It is unlawful for any person or utilization review organization to perform utilization review activities in this state except in accordance with this act.

(2) No utilization review organization nor any individual performing utilization review activities may agree to be compensated or receive compensation which is contingent in any way upon frequency of certification denials, costs avoided by denial or reduction in payment of claims or other results which may be adverse to the needs of the patient as determined by the attending health care provider.

(3) (A) *A utilization review organization may establish prior notification requirements for inpatient and outpatient hospital admissions. A utilization review organization shall not require notification sooner than the next business day after any inpatient admission occurring on a weekend or holiday or any urgent or emergent inpatient or outpatient admission regardless of when the patient presents for services.*

(B) *For the purposes of this paragraph, a patient that is unstable or uncommunicative shall not be deemed to have presented to a health care facility until the patient is able to provide insurance information and the health care facility is permitted under state and federal law to inquire about insurance coverage.*

(b) *A utilization review organization may not reduce or deny payment to a provider for such provider's failure to comply with any utilization review organization's policy that conflicts with this act or any rules and regulations adopted pursuant to K.S.A. 40-22a11 and amendments thereto.*

(c) When the commissioner has reason to believe a utilization review organization subject to this act has been or is engaged in any conduct which violates this act or any rules and regulations adopted pursuant to K.S.A. 40-22a11, the commissioner, after a hearing conducted in accordance with the Kansas administrative procedure act, may:

(1) Issue and cause to be served upon the utilization review organization an order requiring such organization to cease and desist from engaging in such violations;

(2) suspend or revoke the utilization review organization's certificate to perform utilization review affecting residents of this state;

(3) assess a monetary penalty of not less than \$500 and not more than \$1,000 for each violation; or

(4) apply any combination of the above provisions as the commissioner, by written order, deems appropriate.”;

And by renumbering the remaining sections accordingly;

Also on page 15, in line 11, by striking “40-428 and 40-2442” and inserting “40-202, 40-2,125, 40-428, 40-22a07 and 40-2442 and K.S.A. 2007 Supp. 40-2c01 and 40-433”;

In the title, in line 9, by striking all after the semicolon; by striking all in line 10; in line 11, by striking all before the second “and” and inserting “concerning the regulation thereof; amending K.S.A. 40-202, 40-2,125, 40-428, 40-22a07 and 40-2442 and K.S.A. 2007 Supp. 40-2c01 and 40-433”;

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

CLARK SHULTZ
ANTHONY R. BROWN
NILE DILLMORE
Conferees on part of House

RUTH TEICHMAN
DAVID WYSONG
CHRIS STEINER
Conferees on part of Senate

Senator Tiechman moved the Senate adopt the Conference Committee Report on **H Sub for SB 113**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators D. Schmidt and Umbarger introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1861—

A RESOLUTION proclaiming and celebrating the 100th anniversary of the Inter-State Fair and Rodeo.

WHEREAS, In 1907, George Pfister organized a group of businessmen, along with C.L. Hollingsworth who owned Forest Park, to establish the Montgomery County Fair Association; and

WHEREAS, In 1908, the first fair was advertised as the Coffeyville Fair and held in Forest Park, and in 1909, the premium list book included the Montgomery County Fair Association Charter along with a membership list; and

WHEREAS, In its early years, the fair featured acts such as Dr. Carver and his Wild West Show, high diving, early aircraft demonstrations, ostrich racing, the evolution of radio doing remote broadcasting and the transformation from wagons to automobiles, to name a few; and

WHEREAS, During the Great Depression years, the Coffeyville Journal played an important role with other businesses by footing the bill to make the fair free; and

WHEREAS, The fair and rodeo has been a family tradition for residents of Kansas and brings the community together for a celebration of food, fun, entertainment, competition and education, and includes activities such as agricultural exhibits, a bake sale, carnival rides on the fairway, mutton bustin' and stick rodeo for the young, livestock judging, fine arts exhibits, a parade, a tractor pull, lawnmower races, a fairground feed, the ever popular demolition derby, a country and western music show and the PRCA rodeo; and

WHEREAS, Over the past 100 years, thousands of volunteer men and women have joined together to make the annual Coffeyville fair and rodeo a success; and

WHEREAS, The Inter-State Fair and Rodeo will celebrate its centennial year in Coffeyville, Kansas, from August 9 through August 16, 2008, at Walter Johnson Park, formerly Forest Park: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Legislature proclaims the year 2008 as the Inter-State Fair and Rodeo's 100th anniversary and honors those who helped shape the direction and future of the community; and

Be it further resolved: That the Secretary of the Senate is directed to provide 10 enrolled copies of this resolution to Senator Dwayne Umbarger for presentation to representatives of the Inter-State Fair and Rodeo.

On emergency motion of Senator Umbarger **SR 1861** was adopted unanimously.

Guests introduced and welcomed were Richard Johnson and Allen Stotts.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2947**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2947," as follows:

"SENATE Substitute for HOUSE BILL No. 2947

By Committee on Federal and State Affairs

"AN ACT concerning open meetings; relating to serial meetings; amending K.S.A. 75-4317a and K.S.A. 2007 Supp. 75-4318 and 75-4320 and repealing the existing sections."; and the substitute bill be passed.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 113; SB 679, SB 702; S Sub for HB 2936, S Sub for HB 2947**.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Teichman in the Chair.

On motion of Senator Teichman the following report was adopted:

Recommended **SB 702**, **SB 703** be passed.

SB 679 be amended by adoption of the committee amendments, and be further amended by motion of Senator Wysong, on page 5, in line 2, by striking "203" and inserting "202";

SB 679 be further amended by motion of Senator Wysong, on page 1, in line 39, by striking "2013" and inserting "2012", and **SB 679** be passed as further amended.

Senator D. Schmidt moved that an emergency be declared and **S Sub for HB 2947** be moved to the top of the calendar under the heading General Orders.

S Sub for HB 2947 be amended by adoption of the committee amendments recommending a substitute bill, and be further amended by motion of Senator Brungardt, on page 3, of the typewritten bill, by striking all in lines 27, 28 and 29; following line 29 by inserting:

"(c) No fine shall be imposed pursuant to subsection (a) for violations of subsection (f) of K.S.A. 75-4320, and amendments thereto, which occur prior to July 1, 2009.", and **S Sub for HB 2947** be passed as amended.

S Sub for HB 2936 be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt, the Senate recessed until 4:30 p.m.

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

MESSAGE FROM THE GOVERNOR

May 1, 2008

To the Senate of the State of Kansas:

Submitted herewith to the Senate by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius
Governor

RE: Withdrawal of Appointment**Commissioner, Kansas Human Rights Commission, Mr. John Carmichael.**

Pursuant to the authority vested in me by KSA 44-1003, to be effective upon the date of his confirmation by the Senate; John Carmichael was nominated to succeed Errol Williams and was reported favorably on July 26, 2007 by the Senate Confirmation Oversight Committee.

I would like to respectfully request that Mr. Carmichael's name be removed from consideration for appointment to the Kansas Human Rights Commission.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 658**, as amended by House Substitute for **SB 658**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **H Sub for SB 414**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 113**, 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 as House Substitute for Senate Bill No. 113, as follows:

On page 15, in line 2, after the period by inserting “In the case of an audit of the records of a pharmacy by a managed care company, insurance company, third party payor or the representative of the managed care company, insurance company or third party payor, the period covered by the audit shall not exceed two years from the date the claim was submitted to or adjudicated or as otherwise provided by state or federal law.”; after line 10, by inserting the following:

“Sec. 3. K.S.A. 2007 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) “Adjusted RBC report” means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) “Corrective order” means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.

(c) “Domestic insurer” means any insurance company or risk retention group which is licensed and organized in this state.

(d) “Foreign insurer” means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) “NAIC” means the national association of insurance commissioners.

(f) “Life and health insurer” means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.

(g) “Property and casualty insurer” means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) “Negative trend” means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the “trend test calculation” included in the RBC instructions defined in subsection (j).

(i) “RBC” means risk-based capital.

(j) “RBC instructions” mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2006~~ 2007.

(k) “RBC level” means an insurer’s company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) “Company action level RBC” means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) “regulatory action level RBC” means the product of 1.5 and its authorized control level RBC;

(3) “authorized control level RBC” means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) “mandatory control level RBC” means the product of .70 and the authorized control level RBC.

(l) “RBC plan” means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner’s recommendation, the plan shall be called the “revised RBC plan.”

(m) “RBC report” means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) “Total adjusted capital” means the sum of:

(1) An insurer’s capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) “Commissioner” means the commissioner of insurance.

Sec. 4. K.S.A. 40-202 is hereby amended to read as follows: 40-202. Nothing contained in this code shall apply to:

(a) Grand or subordinate lodges of any fraternal benefit society which admits to membership only persons engaged in one or more hazardous occupations in the same or similar line of business or to fraternal benefit societies as defined in and organized under article 7

of chapter 40 of the Kansas Statutes Annotated and amendments thereto, unless they be expressly designated;

- (b) the employees of a particular person, firm, or corporation;
- (c) mercantile associations which simply guarantee insurance to each other in the same lines of trade and do not solicit insurance from the general public;
- (d) the Swedish Mutual Aid Association of Rapp, Osage county, Kansas;
- (e) the Scandia Mutual Protective Insurance Company, of Chanute, Kansas;
- (f) the Seneca and St. Benedict Mutual Fire Insurance Company of Nemaha county, Kansas;
- (g) the mutual insurance system practiced in the Mennonite church, in accordance with an old custom, either by the congregation themselves or by special associations, of its members in Kansas;
- (h) the Kansas State High-School Activities Association;
- (i) the Mutual Aid Association of the Church of the Brethren; or
- (j) a voluntary noncontractual mutual aid arrangement ~~founded on or before December 31, 1952,~~ whereby the needs of participants are announced and accommodated through subscriptions to a monthly publication.

Sec. 5. K.S.A. 40-2,125 is hereby amended to read as follows: 40-2,125. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

- (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;
- (2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or
- (3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a *civil* penalty of up to ~~\$500~~ \$1,000, for each violation or act, along with an additional penalty of up to ~~\$100~~ \$500 for each week thereafter that such report or other information is not provided to the commissioner.

(c) If the commissioner makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or the public interest will be irreparably harmed by delay in issuing an order under subsection (a)(3), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502 and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536 and amendments thereto. Upon the entry of such an order, the commissioner shall promptly notify the person subject to the order that: (1) It has been entered, (2) the reasons therefor and (3) that upon written request within 15 days after service of the order the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order.

(d) For purposes of this section:

- (1) "Person" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society and any other legal entity engaged in the business of insurance, ~~or any person purchasing an interest in a life insurance~~

policy which is licensed pursuant to K.S.A. 40-2,141 and amendments thereto, rating organization, third party administrator, nonprofit dental service corporation, nonprofit medical and hospital service corporation, automobile club, premium financing company, health maintenance organization, insurance holding company, mortgage guaranty insurance company, risk retention or purchasing group, prepaid legal and dental service plan, captive insurance company, automobile self-insurer or reinsurance intermediary. The term "person" shall not include insurance agents licensed pursuant to K.S.A. 40-241 or 40-246, and amendments thereto, insurance brokers licensed pursuant to K.S.A. 40-3701 et seq., and amendments thereto, or employees of licensed agents or brokers and brokers as such terms are defined in K.S.A. 2007 Supp. 40-4902 and amendments thereto.

(2) "Commissioner" means the commissioner of insurance of this state.

Sec. 6. K.S.A. 2007 Supp. 40-433 is hereby amended to read as follows: 40-433. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued by an insurance company organized under the laws of the state of Kansas on its employees and agents, which agents for the purpose of this act only shall be deemed employees, the beneficiaries under such policies to be persons designated by each insured, or a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, both subject to the following requirements: (a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials. (b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by the employer, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribution. A policy on which no part of the premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at least two employees at date of issue. (d) The amounts of insurance under the policy shall be based upon some plan, precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the

premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges shall insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. (d) The amount of insurance on the life of any debtor shall at no time, ~~under one or more policies, exceed the amount owed by that debtor which is repayable in installments to the creditor, or \$100,000, whichever is less.~~ (e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements: (a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy shall cover at least 25 members at date of issue.

(d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established in this state by two or more employers if a majority of the employees to be insured of each employer are located within the state, or to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements: (a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. (b) The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured employees. No

policy shall be issued on which the entire premium is to be derived from funds contributed by the insured persons. The policy shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at date of issue at least 100 persons and not less than an average of five persons per employer unit. (d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

(e) The requirements of paragraphs (b) and (d) of this subsection governing employer contributions and amounts of insurance shall not apply to a voluntary term life insurance policy issued on a group basis.

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

(6) Any policy issued pursuant to this section may be extended to insure the employees against loss due to the death of their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. If any part of the premium is to be derived from funds contributed by the insured employees, the insurance with respect to spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents and their spouse's parents may be placed in force only if at least 75% of the then eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, shall be insured with respect to their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents.

(b) The amounts of insurance shall be based upon some plan precluding individual selection either by the employees or by the policyholder, or employer and shall not exceed with respect to any spouse, child or parent 50% of the insurance on the life of such insured employee.

(c) Upon termination of the insurance with respect to the spouse of an employee by reason of the employee's termination of employment or death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on such spouse's life as is provided for the employee under K.S.A. 40-434 and amendments thereto.

(d) Notwithstanding the provisions of K.S.A. 40-434 and amendments thereto only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

(e) The requirements of paragraphs (a) and (b) of this subsection governing participation, contribution by an employer and amounts of insurance for dependents shall not apply to a voluntary term life insurance policy issued on a group basis.

(7) A policy may be issued to any other group which the commissioner of insurance finds is the proper subject of a group life insurance policy or contract. Any such group shall be subject to any appropriate conditions or provisions relating thereto which the commissioner may establish or require, consistent with the provisions of this act, and such conditions and provisions shall be included in the policy or contract.

Sec. 7. K.S.A. 40-22a07 is hereby amended to read as follows: 40-22a07. (a) (1) It is unlawful for any person or utilization review organization to perform utilization review activities in this state except in accordance with this act.

(2) No utilization review organization nor any individual performing utilization review activities may agree to be compensated or receive compensation which is contingent in any way upon frequency of certification denials, costs avoided by denial or reduction in payment of claims or other results which may be adverse to the needs of the patient as determined by the attending health care provider.

(3) (A) *A utilization review organization may establish prior notification requirements for inpatient and outpatient hospital admissions. A utilization review organization shall not require notification sooner than the next business day after any inpatient admission occurring on a weekend or holiday or any urgent or emergent inpatient or outpatient admission regardless of when the patient presents for services.*

(B) *For the purposes of this paragraph, a patient that is unstable or uncommunicative shall not be deemed to have presented to a health care facility until the patient is able to provide insurance information and the health care facility is permitted under state and federal law to inquire about insurance coverage.*

(b) *A utilization review organization may not reduce or deny payment to a provider for such provider's failure to comply with any utilization review organization's policy that conflicts with this act or any rules and regulations adopted pursuant to K.S.A. 40-22a11 and amendments thereto.*

(c) When the commissioner has reason to believe a utilization review organization subject to this act has been or is engaged in any conduct which violates this act or any rules and regulations adopted pursuant to K.S.A. 40-22a11, the commissioner, after a hearing conducted in accordance with the Kansas administrative procedure act, may:

(1) Issue and cause to be served upon the utilization review organization an order requiring such organization to cease and desist from engaging in such violations;

(2) suspend or revoke the utilization review organization's certificate to perform utilization review affecting residents of this state;

(3) assess a monetary penalty of not less than \$500 and not more than \$1,000 for each violation; or

(4) apply any combination of the above provisions as the commissioner, by written order, deems appropriate.”;

And by renumbering the remaining sections accordingly;

Also on page 15, in line 11, by striking “40-428 and 40-2442” and inserting “40-202, 40-2,125, 40-428, 40-22a07 and 40-2442 and K.S.A. 2007 Supp. 40-2c01 and 40-433”;

In the title, in line 9, by striking all after the semicolon; by striking all in line 10; in line 11, by striking all before the second “and” and inserting “concerning the regulation thereof; amending K.S.A. 40-202, 40-2,125, 40-428, 40-22a07 and 40-2442 and K.S.A. 2007 Supp. 40-2c01 and 40-433”;

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

CLARK SHULTZ
ANTHONY BROWN
NILE DILLMORE
Conferees on part of House

RUTH TEICHMAN
DAVID WYSONG
CHRIS STEINEGER
Conferees on part of Senate

Senator Teichman moved the Senate adopt the Conference Committee Report on **H Sub for SB 113**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 414**, 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 as House Substitute for Senate Bill No. 414, as follows:

On page 1, following line 13, by inserting the following:

“New Section 1. (a) All law enforcement agencies in this state shall adopt written policies regarding allegations of stalking as provided in subsection (b). These policies shall be made available to all officers of such agency.

(b) Such written policies shall include, but not be limited to, the following:

(1) A statement directing that the officers shall make an arrest when they have probable cause to believe that a crime is being committed or has been committed;

(2) a statement defining stalking pursuant to K.S.A. 21-3438, and amendments thereto;

(3) a statement describing the dispatchers’ responsibilities;

(4) a statement describing the responding officers’ responsibilities and procedures to follow when responding to an allegation of stalking and the suspect is at the scene;

(5) a statement describing the responding officers’ responsibilities and procedures to follow when responding to an allegation of stalking and the suspect has left the scene;

(6) procedures for both misdemeanor and felony cases;

(7) procedures for law enforcement officers to follow when handling an allegation of stalking involving court orders, including any protective order as defined by K.S.A. 21-3843, and amendments thereto;

(8) a statement that the law enforcement agency shall provide the following information to victims, in writing:

(A) Availability of emergency and medical telephone numbers, if needed;

(B) the law enforcement agency’s report number;

(C) the address and telephone number of the prosecutor’s office the victim should contact to obtain information about victims’ rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;

(D) the name and address of the crime victims’ compensation board and information about possible compensation benefits;

(E) advise the victim that the details of the crime may be made public;

(F) advise the victim of such victims’ rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and

(G) advise the victim of known available resources which may assist the victim; and

(9) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.

(c) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.

New Sec. 2. On and after January 1, 2009, all prosecuting attorneys, as defined in K.S.A. 22-2202, and amendments thereto, if such prosecuting attorney prosecutes crimes relating to stalking, shall adopt and put into effect written policies regarding the prosecution of crimes related to stalking. Such written policies shall include, but not be limited to, the effective prosecution of such crimes and the protection and safety of victims and such victim’s children from stalking.”;

And by renumbering the remaining sections accordingly;

On page 5, preceding line 37, by inserting the following:

“Sec. 6. K.S.A. 2007 Supp. 74-5604a is hereby amended to read as follows: 74-5604a.

(a) The director of police training may establish a program for extending the law enforcement training and instruction throughout the state on a regional basis. The director of police training also may certify annually the training schools of state and local law enforcement agencies providing a course of law enforcement training for full-time police officers or law enforcement officers when such training programs satisfy the qualifications and standards promulgated by the director of police training after approval of the commission and when

such programs satisfy a demonstrated training need not met by existing programs. The director of police training shall establish a course in basic law enforcement training for part-time police officers or law enforcement officers, approved by the commission, to be provided at the training center and certified state and local law enforcement training schools. In addition, after the general election of each election year and prior to January 1 of the next succeeding year, and at such other times as the director of police training deems necessary, the director of police training shall commence a training course for persons elected to the office of sheriff at the preceding general election.

(b) The director of police training shall conduct a pretraining evaluation of applicants for admission to the course for law enforcement officers conducted by the training center or to any certified state or local law enforcement training school to assure that each applicant is qualified to serve as a law enforcement officer. The director of police training shall adopt minimum standards, which shall receive prior approval by the commission, to be considered in the pretraining evaluation. The director of police training shall advise the city, county or state agency, railroad, school district or community college authorizing the applicant to attend the training center or certified state or local law enforcement training school of the results of the pretraining evaluation. The director of police training, with approval of the commission, may reject an applicant to the training center who does not meet the minimum pretraining standards.

(c) *Training courses conducted pursuant to this section may include procedures for law enforcement to follow when responding to an allegation of stalking.*

Sec. 7. K.S.A. 2007 Supp. 74-5607a is hereby amended to read as follows: 74-5607a. (a) The commission shall not issue a certification as a full-time police officer or law enforcement officer unless such officer has been awarded a certificate attesting to satisfactory completion of a full-time officer basic course of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524, and amendments thereto, on or before January 1, 1982. No person shall receive certification as a part-time police officer or law enforcement officer unless such officer has been awarded a certificate attesting to the satisfactory completion of a part-time officer basic course of instruction in law enforcement at the training center or at a certified state or local law enforcement training school.

(b) Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete annually 40 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay until such training is completed. The director with the approval of the commission shall adopt rules and regulations regarding such education or training. *Such education or training may include procedures for law enforcement to follow when responding to an allegation of stalking.* Every city, county and state agency shall send to the director certified reports of the completion of such education or training. The director shall maintain a record of the reports in the central registry.

(c) Subject to the provisions of subsection (d):

(1) Any person who is appointed or elected as a police officer or law enforcement officer who does not hold a certificate as required by subsection (a) may be issued a provisional certificate for a period of one year. The director may extend the one-year period for the provisional certificate if in the director's determination the extension would not constitute an intentional avoidance of the requirements of subsection (a). If the person's provisional certificate expires or is revoked, the person shall not be issued another provisional certificate within one year of the expiration or revocation. A provisional certificate shall be revoked upon dismissal from any basic training program authorized by K.S.A. 74-5604a, and amendments thereto. A provisional certificate may be revoked upon voluntary withdrawal from any basic training program authorized by K.S.A. 74-5604a, and amendments thereto.

(2) Any police officer or law enforcement officer who does not complete the education or training required by subsection (b) by the date such education or training is required to

have been completed shall be subject to revocation or suspension of certification and loss of the officer's office or position.

(d) The director may extend, waive or modify the annual continuing education requirement, when it is shown that the failure to comply with the requirements of subsection (a) or (b) was not due to the intentional avoidance of the law.”;

And by renumbering the remaining sections accordingly;

Also on page 5, in line 37, preceding “are” by inserting “and K.S.A. 2007 Supp. 74-5604a and 74-5607a”;

In the title, in line 9, preceding “amending” by inserting “requiring certain law enforcement agencies and prosecuting attorneys to adopt certain written policies.”; in line 10, following “60-31a06” by inserting “and K.S.A. 2007 Supp. 74-5604a and 74-5607a”;

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

MICHAEL O'NEAL

LANCE KINZER

JANICE L. PAULS

Conferees on part of House

JOHN VRATIL

TERRY BRUCE

GRETA GOODMAN

Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub for SB 414**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Conference Committee report was adopted.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Teichman in the Chair.

On motion of Senator Teichman the following report was adopted.

S Sub for HB 2936 be amended by adoption of the committee report recommending a substitute bill, and be further amended by motion of Senator Lynn, on page 1, in line 14, before “Section” by inserting “New”;

On page 2, after line 7, by inserting the following:

“Sec. 2. K.S.A. 2007 Supp. 46-1208d is hereby amended to read as follows: 46-1208d. (a) There is hereby established the Kansas autism task force. The task force shall be made up of the following members:

(1) Four members appointed by the president of the senate. Of such members, one shall be a member of the Kansas senate; one shall be a psychiatrist; one shall be a member of the faculty at the department of applied behavioral science at the university of Kansas with a specialization in the area of autism; and one shall be a behavioral analyst who has been certified by the behavioral analyst certification board with a specialization in the area of autism and shall have at least five years experience in providing early intensive intervention to children with autism in a private-practice setting;

(2) three members appointed by the minority leader of the senate. Of such members, one shall be a member of the Kansas senate; one shall be a parent of a child with autism; and one shall be a special education teacher with a specialization in the area of autism and shall have at least five years experience in teaching children with autism;

(3) four members appointed by the speaker of the house of representatives. Of such members, one shall be a member of the Kansas house of representatives; one shall be a parent of a child with autism; one shall be a member of the faculty of the department of

special education at an institution of higher education with a specialization in the area of autism; and one shall be a developmental pediatrician;

(4) three members appointed by the minority leader of the house of representatives. Of such members, one shall be a member of the Kansas house of representatives; one shall be a parent of a child with autism; and one shall be a clinical child psychologist with an expertise in the area of autism;

(5) four members appointed by the governor. Of such members, one shall be a parent of a child with autism; one shall be a speech language pathologist; one shall be an occupational therapist; and one shall be a member of a board of education of a school district;

(6) one member appointed by the parents of children with autism appointed pursuant to subsections (a)(2) through (5). Such member shall be a parent of a child with autism;

(7) one member appointed by the commissioner of insurance. Such member shall be a representative of health insurance companies doing business in the state of Kansas; and

(8) four members, which shall consist of one member appointed by the chief administrative officer of the Capper foundation easter seals located in Topeka, Kansas, the secretary of health and environment, the secretary of social and rehabilitation services and the commissioner of education, or such secretary's or commissioner's designee, who shall serve only as non-voting ex officio members of the task force.

(b) One of the members appointed by the governor shall be designated by the governor to serve as chairperson of the task force. Members of the task force shall be appointed within 30 days of the effective date of this act. The task force shall meet on call of the chairperson or on the request of 11 or more members of the task force. Eleven members of the task force shall constitute a quorum.

(c) Any vacancy occurring in the membership of the task force shall be filled in the same manner as the original appointment.

(d) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the task force and authorized by the legislative coordinating council. Upon request of the task force, the department of education, the department of health and environment and the department of social and rehabilitation services shall provide to the task force any information and supporting documentation relating thereto requested by the task force.

(e) Except as provided by this subsection, members of the task force attending meetings of such task force or subcommittee meetings thereof as authorized by such task force, shall be paid amounts as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, upon vouchers approved by the chairperson of the task force or the chairperson's designee. No member of the task force shall be paid an amount as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, if such member receives an amount from another governmental or private entity for the purpose for which such amount is payable under subsection (e) of K.S.A. 75-3223, and amendments thereto.

(f) The task force shall study and conduct hearings on the issues relating to, the needs of and services available for persons with autism including, but not limited to:

- (1) The re-alignment of state agencies that provide services for children with autism;
- (2) the availability or accessibility of services for the screening, diagnosis and treatment of children with autism and the availability or accessibility of services for the parents or guardians of children with autism;
- (3) the need to increase the number of qualified professionals and paraprofessionals who are able to provide evidence-based intervention and other services to children with autism and incentives which may be offered to meet that need;
- (4) the benefits currently available for services provided to children with autism;
- (5) study and discussion of an autism registry which would (A) provide accurate numbers of children with autism, (B) improve the understanding of the spectrum of autism disorders and (C) allow for more complete epidemiologic surveys of the autism disorder;
- (6) the creation and design of a financial assistance program for children with autism;
- (7) the establishment of a hotline that the parents or guardians of children with autism may use to locate services for children with autism;

(8) additional funding sources to support programs that provide evidence-based intervention or treatment of autism, including funding for the development of regional centers of excellence for the diagnosis and treatment of autism; and

(9) develop recommendations for the best practices for early evidence-based intervention for children with autism.

(g) ~~The~~ *On or before October 1, 2008 and October 1, 2009, the* task force shall submit preliminary reports of the activities and recommendations of the task force to the legislative educational planning committee. ~~A preliminary report shall be submitted on or before November 15, 2007.~~ The final report shall be submitted on or before ~~November 15, 2008~~ *October 1, 2010*. Such reports shall include recommendations for legislative changes.

(h) As used in this section, "autism" means all disorders within the autism spectrum including, but not limited to, autism, Asperger's syndrome, pervasive development disorders and pervasive development disorder, not otherwise specified.

(i) The provisions of this section shall expire on December 31, ~~2008~~ *2010*.

Sec. 3. K.S.A. 2007 Supp. 46-1208d is hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, in line 9, by striking all after "concerning"; by striking all in lines 10 and 11 and inserting "certain entities providing services and assistance to persons with disabilities; amending K.S.A. 2007 Supp. 46-1208d and repealing the existing section.", and **S Sub for HB 2936** be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 679, SB 702, SB 703; S Sub for HB 2936, S Sub for HB 2947** were advanced to Final Action and roll call.

SB 679, An act relating to the department of revenue; concerning the division of vehicles; establishing the division of vehicles modernization fund; amending K.S.A. 8-143b, 8-143c, 8-143g, 8-143h, 8-195 and 8-2425 and K.S.A. 2007 Supp. 8-143, 8-143i, 8-143j, 8-143k, 8-172 and 8-2406 and repealing the existing sections.

On roll call, the vote was: Yeas 21, Nays 18, Present and Passing 1, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Brungardt, Donovan, Emler, Francisco, Goodwin, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Barone, Brownlee, Bruce, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Journey, Lynn, Ostmeier, Palmer, Petersen, Pyle, Steineger, Taddiken, Wagle, Wilson.

Present and Passing: Betts.

The bill passed, as amended.

SB 702, An act concerning exceptions to disclosure under the open records act.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

SB 703, An act reconciling amendments to certain statutes; amending K.S.A. 21-3110, 36-504, as amended by section 5 of 2008 Senate Bill No. 557, 59-3069 and 65-1657, as amended by section 2 of 2008 House Bill No. 2207, and K.S.A. 2007 Supp. 8-2110, as amended by section 1 of 2008 Senate Bill No. 366, 44-322a, 55-193, as amended by section 1 of 2008 House Bill No. 2735, and 75-4209, as amended by section 9 of 2008 House Substitute for Senate Bill No. 387, and repealing the existing sections; also repealing K.S.A. 21-3110b, 36-504, as amended by section 13 of 2008 Senate Bill No. 584, 59-3069, as amended by section 9 of 2008 House Bill No. 2644, 65-1657, as amended by section 17 of 2008 Senate Bill No. 491, and 65-4603 and K.S.A. 2007 Supp. 8-2110, as amended by section 3 of 2008 House Bill No. 2968, 44-322a, as amended by section 14 of chapter 145 of the 2004 Session Laws of Kansas, 55-193, as amended by section 166 of 2008 Senate Bill No.

534, 72-6624a, 72-6625a and 75-4209, as amended by section 1 of 2008 Senate Bill No. 472.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

S Sub for HB 2936. An act concerning the department of social and rehabilitation services; relating to a land transfer from property adjacent to Kansas neurological institute to the Topeka association for retarded citizens, inc.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed, as amended.

S Sub for HB 2947. An act concerning open meetings; relating to serial meetings; amending K.S.A. 75-4317a and K.S.A. 2007 Supp. 75-4318 and 75-4320 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed, as amended.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Teichman in the Chair.

On motion of Senator Teichman the following report was adopted:

S Sub for HB 2946 be amended by adoption of the committee report recommending a substitute bill, and be further amended by motion of Senator Lee, on page 23, following line 2, by inserting the following:

“(k) During the fiscal year ending June 30, 2009, the secretary of social and rehabilitation services shall not make expenditures to conduct a study to consider the feasibility of transferring the sexual predator treatment program from the Larned state hospital and relocating such program at a new location within the state or expanding the sexual predator treatment program at the Larned state hospital to an additional location within the state in accordance with section 99 (p) of 2008 Senate Bill No. 534. On July 1, 2008, the provisions of section 99 (p) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.”;

S Sub for HB 2946 be further amended by motion of Senator Umbarger, on page 22, following line 7, by inserting the following material:

“*Provided*, That the children’s cabinet, with the guidance of the early learning coordinating council, shall plan for maximum early childhood program cohesion and collaboration and recommend to the governor and legislature a transition plan that will improve early childhood coordination in January 2009; *Provided further*, That the plan shall include recommendations and timelines for the incorporation of other state early childhood funding streams into the block grant and shall also recommend whether programs should move or merge, if necessary and appropriate, to facilitate increased coordination with minimum impact on services, children and families; *And provided further*, That while new money for early childhood programs shall be directed to the early childhood block grant, the legislature

supports a system-wide review of all programs to ensure funds are allocated efficiently and effectively, with strong coordination in all programs and agencies.”;

S Sub for HB 2946 be further amended by motion of Senator Umbarger, on page 11, in line 36, before “HISTORICAL” by inserting “STATE”;

S Sub for HB 2946 be further amended by motion of Senator Umbarger, on page 24, following line 27, by inserting the following:

“Sec. 47.

KANSAS PAROLE BOARD

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, the following:

Parole from adult correctional institutions..... \$6,729”;

And by renumbering the remaining sections accordingly;

S Sub for HB 2946 be further amended by motion of Senator Umbarger, on page 16, following line 12, by inserting the following:

“(b) In addition to the other purposes for which expenditures may be made by the above agency from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2008 or fiscal year 2009 as authorized by 2008 Senate Bill No. 534 or by this or other appropriation act of the 2008 regular session of the legislature, expenditures may be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2008 or fiscal year 2009 to raze a cottage at the Kansas soldiers’ home at 437 Custer.”;

S Sub for HB 2946 be further amended by motion of Senator Umbarger, on page 21, in line 25, by adding \$2,290,500 to the dollar amount and by adjusting the dollar amount in line 25 accordingly;

S Sub for HB 2946 be further amended by motion of Senator Reitz, on page 24, following line 27, by inserting the following material to read as follows:

“Sec. 47.

UNIVERSITY OF KANSAS MEDICAL CENTER

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

Wichita center for graduate medical education
For the fiscal year ending June 30, 2009..... \$1,600,000

Provided, That \$7,100,000 has been requested by the Wichita center for graduate medical education from the Kansas bioscience authority for research-oriented grant funding: *Provided further*, That expenditures shall be made from the Wichita center for graduate medical education account for purposes of funding non-research needs such as offsite or rural rotation for which medicare funding has been terminated or for purposes of attaining adequate standard for accreditation of the WCGME residency program.”;

And by renumbering the remaining sections accordingly;

S Sub for HB 2946 be further amended by motion of Senator Lynn, on page 22, following line 9, by inserting the following:

“HCBS autism waiver

For the fiscal year ending June 30, 2009..... \$1,100,000”;

S Sub for HB 2946 be further amended by motion of Senator Huelskamp, on page 14, following line 15, by inserting the following:

“(e) (1) In addition to the other purposes for which expenditures may be made by the department of administration from the moneys appropriated from the state general fund in the capitol area plaza authority planning account of the department of administration for fiscal year 2009, as authorized by this appropriation act, expenditures shall be made by the department of administration from moneys appropriated from the state general fund to the department of administration from moneys appropriated from the state general fund for fiscal year 2009, in the capitol area plaza authority planning account for the capitol area plaza authority, on or after January 1, 2009, to identify those current offices or positions within a state agency which are relocatable. The department of administration shall publish once in the Kansas register a notice describing the relocatable offices or positions and request information from municipalities and private entities on the economic feasibility of relocating such offices or positions to a REDA and shall notify the authority of such infor-

mation. If it is determined that an office or position is not relocatable, then the department shall publish such determination once in the Kansas register, and such publication shall include details as to why it was determined that such office or position was not relocatable and shall notify the authority of such information.

(2) Upon receipt of information on the economic feasibility of relocating those offices or positions identified pursuant to subsection (1), the department of administration shall, if applicable, transmit such information to the appropriate state agency that oversees or controls the office or position described in the information. Within six months after receipt of such information by the appropriate state agency, the appropriate state agency shall determine whether or not to relocate such office or position to a REDA. If it is determined that the office or position is not to be relocated, then the appropriate state agency shall publish such determination once in the Kansas register, and such publication shall include details as to why it was determined that relocation of the office or position was not economically feasible.

(3) (A) As used in this subsection, "authority" means the capital area plaza authority created pursuant to K.S.A. 75-2237, and amendments thereto.

(B) As used in this subsection, "relocatable" pertains to those offices or positions within a state agency the vital functions of which are not dependent on geographic location.

(C) As used in this subsection, "rural economically disadvantaged area" or "REDA" means any city incorporated in accordance with Kansas law located in a county with a population of less than 40,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto, and any unincorporated area of such county.

(D) As used in this subsection, "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board commission or other state authority or any person requesting a state appropriation.";

S Sub for HB 2946 was further amended by motion of Senator Hensley, on page 12, after line 37, by inserting the following:

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

Retiree one-time \$300 payment
For the fiscal year ending June 30, 2009..... \$7,060,000

(e) (1) On July 1, 2008, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$7,060,000 from the extended lottery act revenues fund to the state general fund for the purpose of reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service of \$36,146,303 for fiscal year 2009 as provided in section 85(a) of 2008 Senate Bill No. 534.

(2) During the fiscal year ending June 30, 2009, in accordance with the provisions of K.S.A. 2007 Supp. 74-8768, and amendments thereto, the moneys transferred pursuant to the provisions of this subsection (e) from the expanded lottery act revenues fund to the state general fund are for the purpose reduction of state debt by reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service of \$36,146,303 for fiscal year 2009 and paid from the state general fund as provided in section 85(a) of 2008 Senate Bill No. 534.

(3) During the fiscal year ending June 30, 2009, if moneys are not available in the expanded lottery act revenues fund for transfer to the state general fund during the fiscal year ending June 30, 2009, as prescribed by subsection (e)(1), then, effective on July 1, 2008, pursuant to a determination by the director of the budget that such moneys are not available in the expanded lottery act revenues fund for transfer to the state general fund during fiscal year 2009, (A) the \$7,060,000 appropriated for the above agency for the fiscal year ending June 30, 2009, by subsection (d) from the state general fund in the retiree one-time \$300 payment account, is hereby lapsed.";

S Sub for HB 2946 be further amended by motion of Senator Wysong, on page 1, by striking all in lines 33 through 43, including all amendments adopted by the Senate committee of the whole;

By striking all on pages 2 through 23, including all amendments adopted by the Senate committee of the whole;

On page 24, by striking all in lines 1 through 27, including all amendments adopted by the Senate committee of the whole, and inserting the following:

“Sec. 2.

KANSAS DEPARTMENT OF AGRICULTURE

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

Operating expenditures

For the fiscal year ending June 30, 2009..... \$184,962

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Food service inspection reimbursement fund

For the fiscal year ending June 30, 2009..... No limit

Food inspection fee fund

For the fiscal year ending June 30, 2009..... No limit

Provided, That expenditures may be made from the food inspection fee fund for operating expenditures for the food inspection program and other activities for the regulation of food service establishments under the food service and lodging act: *Provided further*, That, notwithstanding the provisions of K.S.A. 36-512, and amendments thereto, to the contrary, all moneys received from fees charged and collected by the secretary of agriculture under the food inspection program and other activities for the regulation of food service establishments under the food service and lodging act shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75- 4215, and amendments thereto, and shall be credited to the food inspection fee fund: *And provided further*, That, on October 1, 2008, and on the first day of each month thereafter, the director of accounts and reports shall transfer from the food inspection fee fund to the food service inspection reimbursement fund an amount equal to 80% of all fees credited to the food inspection fee fund where food service inspection services are provided by a local agency under contract with the secretary to inspect food service establishments located in a municipality.

(c) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the Kansas department of agriculture is hereby increased from 316.49 to 354.49.

Sec. 3.

KANSAS WATER OFFICE

(a) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 131(b) of 2008 Senate Bill No. 534 on the water conservation projects fund is hereby decreased from \$3,300,000 to \$0.

(b) During the fiscal year ending June 30, 2009, notwithstanding the provisions of section 131(b) of 2008 Senate Bill No. 534 authorizing, directing, limiting or placing conditions on expenditures from the water conservation projects fund of the Kansas water office, as set forth in the provisos to the appropriation of the moneys in such fund, the specific authorization to make expenditures from such fund for the following projects is hereby rescinded: Alternate delivery system for Lake McKinney; capacity storage and control structures at Lake McKinney; lining of the southside ditch; alternate delivery system for the farmers ditch; recharge projects; and check dam and structures: *Provided, however*, That the Kansas water office may make expenditures from the water conservation projects fund for water conservation projects authorized by K.S.A. 82a-1803, and amendments thereto, that are determined feasible by studies and recommended by the director of the Kansas water office in consultation with the chief engineer of the division of water resources of the Kansas department of agriculture: *Provided further*, That all expenditures from this fund for all such water conservation projects shall be within any expenditure limitation imposed on the water conservation projects fund for fiscal year 2009: *And provided further*, That, on July 1, 2008, the provisions of the provisos to the appropriation of the moneys in the water

conservation projects fund in section 131(b) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

(c) On July 1, 2008, or as soon thereafter as moneys are available, notwithstanding the provisions of subsection (g) of K.S.A. 79-4804, and amendments thereto, the director of accounts and reports shall transfer \$1,043,985 from the state economic development initiatives fund to the state water plan fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state economic development initiatives fund to the state water plan fund as prescribed by law.

Sec. 4.

STATE CONSERVATION COMMISSION

(a) Any unencumbered balance in excess of \$100 as of June 30, 2008, in each of the following accounts is hereby reappropriated for the above agency for fiscal year 2009: Conservation reserve enhancement program.

(b) On and after the effective date of this act, during fiscal year 2008 and fiscal year 2009, all expenditures made by the state conservation commission from the moneys appropriated in the conservation reserve enhancement program account from the state water plan fund for fiscal year 2007, fiscal year 2008 or fiscal year 2009 as authorized by chapter 167 or chapter 201 of the 2007 Session Laws of Kansas, by 2008 Senate Bill No. 534, or by this or other appropriation act of the 2008 regular session of the legislature, shall be made by the state conservation commission in accordance with the following: *Provided*, That all expenditures under the conservation reserve enhancement program, referred to as CREP in this subsection, are subject to the following criteria:

(1) The total number of acres enrolled in Kansas in CREP for the three fiscal years 2007, 2008 and 2009 shall not exceed 40,000 acres;

(2) the number of acres eligible for enrollment in CREP in Kansas shall be limited to one-half of the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area, except that if federal law permits the land enrolled in the CREP program to be used for agricultural purposes such as planting of agricultural commodities, including, but not limited to: Grains, cellulosic or biomass materials, alfalfa, grasses, legumes or other cover crops, then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area;

(3) lands enrolled in the conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP;

(4) no more than 25% of the acreage in CREP may be in any one county;

(5) no water right that is owned by a governmental entity, except a groundwater management district, shall be purchased or retired by the state or federal government pursuant to CREP; and

(6) only water rights in good standing are eligible for inclusion under CREP: *And provided further*, That to be a water right in good standing the following criteria must be met: (A) At least 50% of the maximum annual quantity authorized to be diverted under the water right has been used in any three years from 2001 through 2005; (B) in the years 2001 through 2005 the water rights used for the acreage in CREP shall not have exceeded the maximum annual quantity authorized to be diverted and shall not have been the subject of enforcement sanctions by the division of water resources in the last four years; and (C) the water right holder has submitted the required annual water use report required by K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years: *And provided further*, That the state conservation commission shall submit a CREP report to the senate committee on natural resources and the house committee on agriculture and natural resources at the beginning of the 2009 regular session of the legislature which shall contain a description of program activities and shall include: (i) The total water rights, measured in acre feet, retired in CREP during fiscal year 2008 and fiscal year 2009 to date, (ii) the acreage enrolled in CREP during fiscal year 2008 and in fiscal year 2009 to date, (iii) the dollar amounts received and expended for CREP during fiscal year 2008 and in fiscal year 2009 to date, (iv) the economic impact of the CREP program, (v) the change in groundwater levels in the CREP area during fiscal year 2008 and fiscal year 2009 to date, (vi) the annual amount of water

usage in the CREP area during fiscal year 2008 and fiscal year 2009 to date, (vii) an assessment of meeting each of the program objectives identified in the agreement with the farm service agency, and (viii) such other information as the state conservation commission shall specify.

Sec. 5.

STATE CORPORATION COMMISSION

(a) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the state corporation commission is hereby increased from 214.00 to 216.00.

Sec. 6.

DEPARTMENT OF EDUCATION

(a) Any unencumbered balance in excess of \$100 as of June 30, 2008, in the Kansas career pipeline account of the state general fund is hereby reappropriated for fiscal year 2009.

(b) On the effective date of this act, of the \$7,184,835 appropriated for the above agency for the fiscal year ending June 30, 2008, by section 123(a) of chapter 167 of the 2007 session laws of Kansas, from the state general fund in the school district juvenile detention facilities and Flint Hills job corps center grants account, the sum of \$193,722 is hereby lapsed.

(c) On the effective date of this act, notwithstanding the provisions of the proviso to the appropriation for the above agency to the Kansas career pipeline grant account of the state general fund in section 34(a) of chapter 201 of the 2007 session laws of Kansas, the requirement of a \$1 for \$1 match shall not be limited to business and industry as sources of the matching funds during fiscal year 2008.

(d) On July 1, 2008, notwithstanding the provisions of the proviso to the appropriation for the above agency to the Kansas career pipeline grant account of the state general fund in section 34(a) of chapter 201 of the 2007 session laws of Kansas, the requirement of a \$1 for \$1 match shall not be limited to business and industry as sources of the matching funds during fiscal year 2009.

Sec. 7.

DEPARTMENT OF HEALTH AND ENVIRONMENT—DIVISION OF HEALTH

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

Lodging establishment inspections
For the fiscal year ending June 30, 2009..... \$61,654

(b) On July 1, 2008, of the \$4,588,103 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 95(a) of 2008 Senate Bill No. 534 from the state general fund in the operating expenditures (including official hospitality) — health account, the sum of \$74,949 is hereby lapsed.

(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year or years specified, the following:

Infants and toddlers program
For the fiscal year ending June 30, 2009..... \$4,500,000

(d) On July 1, 2008, of the \$3,771,305 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 95(a) of 2008 Senate Bill No. 534 from the state general fund in the infant and toddler program account, the sum of \$3,500,000 is hereby lapsed.

(e) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the department of health and environment — division of health is hereby increased from 374.90 to 407.90.

Sec. 8.

ATTORNEY GENERAL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Tobacco master settlement agreement compliance fund

For the fiscal year ending June 30, 2008.....	No limit
For the fiscal year ending June 30, 2009.....	No limit
Sexually violent predator expense fund	
For the fiscal year ending June 30, 2009.....	No limit

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by section 32(e) of 2008 Senate Bill No. 534 on the crime victims compensation fund for state operations is hereby increased from \$351,278 to \$392,354.

(c) In addition to the other purposes for which expenditures may be made by the attorney general from the interstate water litigation fund for the fiscal year ending June 30, 2009, as authorized by section 73(b) of 2008 Senate Bill No. 534, expenditures may be made by the above agency from the interstate water litigation fund for fiscal year 2009 for internal operating expenditures: *Provided*, That expenditures for internal operating expenses from the interstate water litigation fund for fiscal year 2009 shall not exceed \$188,790.

(d) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the attorney general is hereby increased from 102.00 to 104.00.

Sec. 9.

JUVENILE JUSTICE AUTHORITY

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by section 49(e) of 2008 Senate Bill No. 534 on the juvenile detention facilities fund is hereby increased from \$3,993,635 to \$4,300,000.

(b) On July 1, 2008, the \$2,793,099 appropriated for the above agency for fiscal year ending June 30, 2009, by section 157(a), of the 2008 Senate Bill No. 534 from the state institutions building fund in the renovate Kansas juvenile correctional complex administration building account is hereby lapsed.

Sec. 10.

DEPARTMENT OF CORRECTIONS

(a) On the effective date of this act, of the \$51,700,791 appropriated for the above agency for the fiscal year ending June 30, 2008, by section 139(a) of chapter 167 of the 2007 Session Laws of Kansas from the state general fund in the treatment and programs account, the sum of \$74,819 is hereby lapsed.

(b) On July 1, 2008, of the \$54,717,573 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 117(a) of 2008 Senate Bill No. 534 from the state general fund in the treatment and programs account, the sum of \$74,819 is hereby lapsed.

(c) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Department of corrections victim assistance fund	
For the fiscal year ending June 30, 2009.....	No limit

Sec. 11.

KANSAS HIGHWAY PATROL

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by the state finance council on the Kansas highway patrol operations fund is hereby decreased from \$19,573,674 to \$18,940,528.

(b) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 122(b) of 2008 Senate Bill No. 534 on the Kansas highway patrol operations fund is hereby increased from \$19,061,033 to \$19,886,033.

Sec. 12.

STATE FIRE MARSHAL

(a) During the fiscal year ending June 30, 2009, if the resources are insufficient to meet in full the estimated expenditures as they become due to meet the financial obligations imposed by law on the fire marshal fee fund of the state fire marshal as a result of a cash flow shortfall, the director of the budget is authorized and directed to loan the state fire marshal a sufficient amount or amounts of moneys from the state general fund to maintain the cash flow of the fire marshal fee fund upon approval of each such loan by the director of the budget. No such loan shall be made unless the terms thereof have been approved by

the director of the budget. A copy of the terms of each such loan shall be submitted to the director of legislative research. Each loan shall be repaid without interest within one year from the date of the loan: *Provided*, That the aggregate amount of such loans for the fiscal year ending June 30, 2009, shall not exceed \$500,000.

Sec. 13.

ADJUTANT GENERAL

(a) On the effective date of this act, of the \$10,867,000 appropriated for the above agency for the fiscal year ending June 30, 2008 by section 50(a) of 2008 Senate Bill No. 534 from the state general fund in the disaster relief account, the sum of \$2,500,000 is hereby lapsed.

(b) On July 1, 2008, of the \$38,974,435 appropriated for the above agency for the fiscal year ending June 30, 2009 by section 119(a) of 2008 Senate Bill No. 534 from the state general fund in the disaster relief account, the sum of \$26,934,000 is hereby lapsed.

(c) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

National guard museum assistance fund	
For the fiscal year ending June 30, 2008.....	\$0
For the fiscal year ending June 30, 2009.....	No limit

Provided, That all expenditures from the national guard museum assistance fund shall be made for an expansion of the 35th infantry division museum and education center facility: *Provided further*, That, if 2008 Senate Substitute for House Bill No. 2923 is not passed by the legislature during the 2008 regular session and enacted into law, then, on July 1, 2008, the appropriation of all moneys lawfully credited to and available in the national guard museum assistance fund for the above agency for the fiscal year ending June 30, 2009, is hereby lapsed, and the national guard museum assistance fund is hereby abolished.

Sec. 14.

EMERGENCY MEDICAL SERVICES BOARD

(a) (1) During the fiscal year ending June 30, 2009, if any county, EMS regional council, EMS service and any other organization enters into a grant agreement with the emergency medical service board, such entity shall be required to submit pursuant to such grant agreement a written report detailing and accounting for all expenditures and receipts of such entity during such fiscal year concerning the moneys received pursuant to such grant agreement and moneys from any other state source. The emergency medical services board shall prepare a written report specifying and accounting for all such moneys received by and expended by each such individual entity that has reported to the emergency medical services board pursuant to such grant agreement and submit such report to the house of representatives committee on appropriations and the senate committee on ways and means on or before February 1, 2009.

(2) During the fiscal year ending June 30, 2009, the emergency medical services board shall not prepare a written report specifying and accounting for all moneys received by and expended by each individual organization that has reported to the emergency medical services board pursuant to a grant agreement in accordance with section 124(f) of 2008 Senate Bill No. 534 and shall not submit such report to the house of representatives committee on appropriations and the senate committee on ways and means in accordance with section 124(f) of 2008 Senate Bill No. 534. On July 1, 2008, the provisions of section 124(f) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

Sec. 15.

BOARD OF HEALING ARTS

(a) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 24(b) of 2008 Senate Bill No. 534 on the healing arts fee fund is hereby increased from \$3,126,800 to \$3,156,500: *Provided*, That, if 2008 House Bill No. 2620 is not passed by the legislature during the 2008 regular session and enacted into law, then, on July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by this subsection on the healing arts fee fund is hereby decreased from \$3,156,500 to \$3,126,800.

Sec. 16.

BOARD OF NURSING

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Criminal background and fingerprinting fund
For the fiscal year ending June 30, 2009..... No limit

Sec. 17.

STATE HISTORICAL SOCIETY

(a) There is appropriated for the above agency from the expanded lottery act revenues fund for the fiscal year or years specified, the following:

Goodnow house rehabilitation and repair — ELARF
For the fiscal year ending June 30, 2009..... \$154,775

Provided, That this funding is subject to the availability of funds in the expanded lottery act revenues fund.

Sec. 18.

STATE TREASURER

(a) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the state treasurer is hereby increased from 55.50 to 56.50.

(b) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 75(a) of 2008 Senate Bill No. 534 on the state treasurer operating fund is hereby increased from \$1,577,817 to \$1,646,109.

(c) On the effective date of this act, the amount prescribed by section 75 (a) of 2008 Senate Bill No. 534 for the state treasurer to direct and credit to the state treasurer operating fund is hereby increased from \$1,577,817 to \$1,646,109.

Sec. 19.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) On June 30, 2008, the director of accounts and reports shall transfer all moneys credited to the senior services trust fund of the Kansas public employees retirement system from the senior service trust fund to the state general fund and all liabilities of the senior services trust fund of the Kansas public employees retirement system are hereby transferred to and imposed on the state general fund.

(b) On the effective date of this act or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$7,276,628 from the Kansas endowment for youth fund of the Kansas public employees retirement system to the children's initiatives fund for the purpose of recognizing additional tobacco settlement revenue.

(c) On the effective date of this act or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$500,000 from the Kansas endowment for youth fund of the Kansas public employees retirement system to the tobacco master settlement agreement compliance fund of the attorney general for the purpose of conducting enforcement activities related to the tobacco settlement agreement.

Sec. 20.

DEPARTMENT OF ADMINISTRATION

(a) Any unencumbered balance in the capitol area plaza authority planning account in excess of \$100 as of June 30, 2008, is hereby reappropriated for fiscal year 2009.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Capitol area plaza authority planning fund
For the fiscal year ending June 30, 2008..... No limit
For the fiscal year ending June 30, 2009..... No limit

Provided, That the secretary of administration may accept gifts, donations and grants of money, including payments from local units of city and county government, for the development of a new master plan for the capitol plaza and the extended state zoning area

described in K.S.A. 75-3619, and amendments thereto: *Provided further*, That all such gifts, donations and grants shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the credit of the capitol area plaza authority planning fund.

(c) During the fiscal year ending June 30, 2009, the pooled money investment board is authorized and directed to loan money for digital equipment acquisition to the following public television stations affiliated with the Kansas public broadcasting council: KTWU — Topeka, KPTS — Wichita, KCPT — Kansas City, and Smoky Hills public television. The aggregate amount loaned under such loan program during fiscal year 2009 shall not exceed \$2,298,503. No such loan shall be made unless the terms have been approved by the director of the budget. A copy of the terms of each such loan shall be submitted to the director of legislative research. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for each such loan. Each such loan shall be repaid, with interest, within 10 years from the date of the loan. The secretary of administration is hereby authorized to implement and administer the loan program under this subsection within the budget authorized and the aggregate limitation established therefor and to establish the application guidelines, interest rate or rates, other terms and conditions and loan amounts to be awarded to each of such public television stations, in accordance with policies which are hereby authorized to be adopted by the secretary of administration for such loan program.

Sec. 21.

KANSAS RACING AND GAMING COMMISSION

(a) On July 1, 2008, the aggregate limitation established by section 89(h) of 2008 Senate Bill No. 534 on the amount that the pooled money investment board is authorized and directed to loan to the Kansas racing and gaming commission during fiscal year 2009 as needed for the operating expenses of the Kansas racing and gaming commission for the expanded lottery operations under chapter 110 of the 2007 Session Laws of Kansas, which is stated as an aggregate for all such loan amounts provided to the Kansas racing and gaming commission by the pooled money investment board during both fiscal year 2008 and fiscal year 2009, is hereby increased from \$3,000,000 to \$5,000,000.

Sec. 22.

DEPARTMENT OF WILDLIFE AND PARKS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by the state finance council on the rehabilitation and repair account of the wildlife fee fund is hereby increased from \$1,284,860.74 to \$1,684,860.74.

(b) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 132(b) of 2008 Senate Bill No. 534 on the wildlife fee fund for state operations is hereby increased from \$19,526,062 to \$19,684,161.

(c) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 132(b) of 2008 Senate Bill No. 534 on the boating fee fund for state operations is hereby increased from \$1,142,854 to \$1,168,905.

(d) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 132(b) of 2008 Senate Bill No. 534 on the parks fee fund for state parks operating expenditures is hereby increased from \$4,828,437 to \$5,011,427.

(e) Notwithstanding the current executive department policy for replacing state agency vehicles that requires one vehicle to be removed from the state fleet in order to acquire a replacement vehicle, the Kansas department of wildlife and parks is hereby authorized and directed to retain up to 31 vehicles that are scheduled to be replaced during the fiscal year ending June 30, 2009: *Provided*, That the secretary of wildlife and parks shall have authority to reallocate any such vehicles to be retained: *Provided further*, That the secretary of wildlife and parks is authorized to make any necessary funding adjustments to offset any potential diversion of federal funds and to subsequently relocate the vehicles to and among the state parks for use by seasonal and temporary staff.

(f) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the department of wildlife and parks is hereby increased from 414.55 to 416.55.

Sec. 23.

DEPARTMENT OF TRANSPORTATION

(a) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 133(b) of 2008 Senate Bill No. 534 on the state highway fund for state operations is hereby increased from \$269,078,434 to \$271,383,054.

Sec. 24.

KANSAS HOUSING RESOURCES CORPORATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

State housing trust fund

For the fiscal year ending June 30, 2008..... No limit

For the fiscal year ending June 30, 2009..... No limit

Provided, That all expenditures from the state housing trust fund shall be made by the Kansas housing resources corporation pursuant to 2008 Senate Bill No. 417: *Provided further*, That, notwithstanding the provisions of K.S.A. 74-8959, and amendments thereto, or any other statute, the Kansas housing resources corporation may make expenditures from the state housing trust fund for the purposes of implementing and administering the provisions of sections 4 through 9, and amendments thereto, of 2008 Senate Bill No. 417, the Kansas rural housing incentive district act.

Sec. 25.

DEPARTMENT OF LABOR

(a) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 93(b) of 2008 Senate Bill No. 534 on the federal indirect cost offset fund is hereby increased from \$203,195 to \$308,517.

Sec. 26.

KANSAS COMMISSION ON VETERANS AFFAIRS

(a) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 94(b) of 2008 Senate Bill No. 534 on the commission on veterans affairs federal fund is hereby increased from \$127,942 to \$187,288.

(b) In addition to the other purposes for which expenditures may be made by the above agency from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2008 or fiscal year 2009 as authorized by 2008 Senate Bill No. 534 or by this or other appropriation act of the 2008 regular session of the legislature, expenditures may be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2008 or fiscal year 2009 to raze a cottage at the Kansas soldiers' home at 437 Custer.

Sec. 27.

OFFICE OF THE SECURITIES COMMISSIONER OF KANSAS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by section 29(a) of 2008 Senate Bill No. 534 on the securities act fee fund is hereby increased from \$2,697,137 to \$2,731,776.

(b) On July 1, 2008, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 29(b) of 2008 Senate Bill No. 534 on the securities act fee fund is hereby increased from \$2,679,338 to \$2,782,599.

Sec. 28.

DEPARTMENT OF COMMERCE

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

Operating grant (including official hospitality)
For the fiscal year ending June 30, 2009..... \$171,600

(b) On July 1, 2008, the amount of \$1,250,000 authorized by section 90(f) of 2008 Senate Bill No. 534 to be transferred by the director of accounts and reports from the state economic development initiatives fund to the Kansas economic opportunity initiatives fund of the department of commerce on August 15, 2008, and December 15, 2008, or as soon thereafter as moneys are available, is hereby decreased to \$625,000.

(c) The director of accounts and reports shall not make the transfer of \$150,000 from the state economic development initiatives fund to the small employer cafeteria plan development program fund of the department of commerce which was authorized to be made on July 1, 2008, by section 90(g) of 2008 Senate Bill No. 534 and, on July 1, 2008, the provisions of section 90(g) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

(d) The director of accounts and reports shall not make the transfer of \$500,000 from the state economic development initiatives fund to the association assistance plan fund of the department of commerce which was directed to be made on July 1, 2008, by section 90(h) of 2008 Senate Bill No. 534 and, on July 1, 2008, the provisions of section 90(h) of 2008 Senate Bill No. 534 are hereby declared to be null and void and shall have no force and effect.

Sec. 29.

STATE BOARD OF INDIGENTS' DEFENSE SERVICES

(a) On July 1, 2008, of the \$9,600,000 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 79(a) of 2008 Senate Bill No. 534 from the state general fund in the assigned counsel expenditures account, the sum of \$300,000 is hereby lapsed.

Sec. 30.

JUDICIAL BRANCH

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Judicial branch nonjudiciary salary adjustment fund	
For the fiscal year ending June 30, 2009.....	No limit

Sec. 31. On July 1, 2008, section 86 of 2008 Senate Bill No. 534 is hereby amended to read as follows:

Sec. 86.

STATE ~~BOARD~~ COURT OF TAX APPEALS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, the following:

Operating expenditures	\$1,608,780
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Provided, That any unencumbered balance in the operating expenditures account of the state board of tax appeals, which was abolished by 2008 Substitute for House Bill No. 2018, in excess of \$100 as of June 30, 2008, is hereby reappropriated to the operating expenditures account of the state court of tax appeals for fiscal year 2009.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2009, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Duplicating fees fund	\$5,000
OTA COTA filing fee fund	\$496,234

Sec. 32. On July 1, 2008, Section 86 of 2008 Senate Bill No. 534 is hereby repealed.

Sec. 33.

DEPARTMENT OF REVENUE

(a) On July 1, 2008, the amount of \$500,000 authorized by section 87(f)(2) of 2008 Senate Bill No. 534 to be transferred by the director of accounts and reports from the state economic development initiatives fund to the Kansas qualified biodiesel fuel producer incentive fund of the department of revenue on July 1, 2008, October 1, 2008, January 1, 2009, and April 1, 2009, is hereby decreased to \$250,000.

Sec. 34.

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Technology innovation federal grant fund	
For the fiscal year ending June 30, 2008.....	No limit
For the fiscal year ending June 30, 2009.....	No limit

Sec. 35.

STATE BOARD OF REGENTS

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

PEI infrastructure — debt service

For the fiscal year ending June 30, 2009.....	\$3,180,469
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(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Postsecondary educational infrastructure finance K DFA 2008A revenue fund

For the fiscal year ending June 30, 2009.....	No limit
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(c) During the fiscal year ending June 30, 2009, notwithstanding any provisions of subsection (f) of K.S.A. 2007 Supp. 66-2010, and amendments thereto, to the contrary, the amount of \$8,000,000 shall be certified before July 1, 2008, by the chief executive officer of the state board of regents to the administrator of the KUSF and the administrator of the KUSF shall pay such amount from the Kansas universal service fund of the state corporation commission to the KAN-ED fund of the state board of regents during fiscal year 2009 in accordance with the provisions of subsections (f)(1) and (f)(2) of K.S.A. 2007 Supp. 66-2010, and amendments thereto.

(d) In addition to the other purposes for which expenditures may be made by the above agency from the postsecondary aid for vocational education account of the state general fund for fiscal year 2009 as authorized by section 116(a) of 2008 Senate Bill No. 534, notwithstanding the provisions of section 116(a) of 2008 Senate Bill No. 534, or any other statute, expenditures shall be made for state aid by the above agency from the postsecondary aid for vocational education account of the state general fund for fiscal year 2009 so that no technical education institution, including technical colleges, receives less state aid in the fiscal year ending June 30, 2009, than it received in the previous fiscal year.

(e) In addition to the other purposes for which expenditures may be made by the above agency from the postsecondary education operating grant account of the state general fund for fiscal year 2009 as authorized by section 116(a) of 2008 Senate Bill No. 534, notwithstanding the provisions of section 116(a) of 2008 Senate Bill No. 534, or any other statute, expenditures shall be made for state aid by the above agency from the postsecondary education operating grant account of the state general fund for fiscal year 2009 so that no technical education institution, including technical colleges, receives less state aid in the fiscal year ending June 30, 2009, than it received in the previous fiscal year.

Sec. 36.

PITTSBURG STATE UNIVERSITY

(a) (1) During the fiscal year ending June 30, 2009, no bonds shall be approved by the Kansas development finance authority for the capital improvement project for student health center construction for Pittsburg state university pursuant to section 151(i) of 2008 Senate Bill No. 534 until the conditions of K.S.A. 76-742, and amendments thereto, have been met.

(2) On July 1, 2008, the provisions of the last proviso in section 151(i) of 2008 Senate Bill No. 534 which states that no bonds shall be approved by the Kansas development finance authority until the conditions of K.S.A. 76-142, and amendments thereto, have been met, are hereby declared to be null and void and shall have no force and effect.

Sec. 37.

UNIVERSITY OF KANSAS

(a) In addition to the other purposes for which expenditures may be made by the university of Kansas for the moneys appropriated from the expanded lottery act revenue fund for fiscal year 2009 or fiscal year 2010 as authorized by 2008 Senate Bill No. 534 or by this or other appropriation act of the 2008 regular session of the legislature, expenditures shall be made by the university of Kansas from moneys appropriated from the expanded lottery act revenue fund for fiscal year 2009 or for fiscal year 2010 to provide for the issuance of

bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to construct and remodel the school of pharmacy: *Provided*, That such capital improvement project is hereby approved for the university of Kansas for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That the university of Kansas may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$50,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project and any required reserves for payment of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations from the expanded lottery act revenues fund: *And provided further*, That if funds are not available in the expanded lottery act revenues fund, expenditures shall be made by the university of Kansas from moneys appropriated from the state general fund.

(b) On the effective date of this act, the \$5,000,000 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 152(a) of 2008 Senate Bill No. 534 from the state general fund in the school of pharmacy expansion project account, is hereby lapsed. Sec. 38.

GOVERNMENTAL ETHICS COMMISSION

(a) On or after the effective date of this act, during the fiscal year ending June 30, 2008, all expenditures made by the above agency for the fiscal year ending June 30, 2008, for the purpose of conducting the heartland council on governmental ethics laws conference shall be in addition to any expenditure limitation imposed on the governmental ethics commission fee fund for fiscal year 2008. Sec. 39.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

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

Other medical assistance	
For the fiscal year ending June 30, 2008.....	\$4,074,509
Youth services aid and assistance	
For the fiscal year ending June 30, 2009.....	\$1,900,000
Cash assistance	
For the fiscal year ending June 30, 2008.....	\$42,154
Community based services	
For the fiscal year ending June 30, 2008.....	\$1,151,110
For the fiscal year ending June 30, 2009.....	\$500,000
Parsons state hospital and training center — operating expenditures	
For the fiscal year ending June 30, 2008.....	\$141,019

(b) On the effective date of this act, of the \$111,985,973 appropriated for the above agency for the fiscal year ending June 30, 2008, by section 121(a) of chapter 167 of the 2007 Session Laws of Kansas from the state general fund in the youth services aid and assistance account, the sum of \$1,163,619 is hereby lapsed.

(c) On July 1, 2008, of the \$98,839,321 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 99(a) of 2008 Senate Bill No. 534 from the state general fund in the other medical assistance account, the sum of \$1,235,354 is hereby lapsed.

(d) On July 1, 2008, of the \$68,326,730 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 99(a) of 2008 Senate Bill No. 534 from the state general fund in the cash assistance account, the sum of \$1,048,779 is hereby lapsed.

(e) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year or years specified:

Early childhood block grant	
For the fiscal year ending June 30, 2009.....	\$11,100,000
Early head start	
For the fiscal year ending June 30, 2009.....	\$1,852,779

(f) During the fiscal year ending June 30, 2009, the director of accounts and reports shall transfer the amounts specified by the director of the budget from the LTC — medicaid assistance — NF account of the state general fund of the department on aging to the LTC — medicaid assistance — HCBS/FE account of the state general fund of the department on aging or to the community based services account of the department of social and rehabilitation services: *Provided*, That such amounts to be transferred shall be certified by the director of the budget on December 1, 2008, and on June 1, 2009, to reflect the nursing facility rate paid for persons moving from a nursing facility to the home and community-based services waiver for the physically disabled or the frail elderly for the six months preceding the date of certification: *Provided further*, That each of the individuals transferred must meet the requirements described in a policy jointly developed by the secretary of aging and the secretary of social and rehabilitation services governing the operations of this transfer: *And provided further*, That the director of the budget shall transmit a copy of each such certification to the director of legislative research: *And provided further*, That the department of social and rehabilitation services shall report to the legislature at the beginning of the regular session in 2009 with expenditure data regarding this program.

(g) On the effective date of this act, of the \$10,800,250 appropriated for the above agency for the fiscal year ending June 30, 2008, by section 121(a) of chapter 167 of the 2007 Session Laws of Kansas from the state general fund in the Osawatimie state hospital — operating expenditures account, the sum of \$141,019 is hereby lapsed.

(h) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by the state finance council on the Osawatimie state hospital fee fund is hereby increased from \$4,842,397 to \$5,383,416.

(i) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2008, by the state finance council on the Parsons state hospital and training center fee fund is hereby decreased from \$1,434,990 to \$1,293,971.

Sec. 40.

DEPARTMENT ON AGING

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

LTC — medicaid assistance — NF	
For the fiscal year ending June 30, 2008.....	\$1,211,000
For the fiscal year ending June 30, 2009.....	\$2,004,000
Nursing facilities regulation	
For the fiscal year ending June 30, 2008.....	\$13,330
Nursing facilities regulation — title XIX	
For the fiscal year ending June 30, 2008.....	\$9,470
For the fiscal year ending June 30, 2009.....	\$74,949

(b) On July 1, 2008, the position limitation established for the fiscal year ending June 30, 2009, by section 134(a) of 2008 Senate Bill No. 534 for the department on aging is hereby increased from 209.00 to 214.00.

(c) (1) During the fiscal years ending June 30, 2008, and June 30, 2009, in addition to other purposes for which expenditures may be made by the department on aging from the moneys appropriated from the state general fund or any special revenue fund for the above agency for fiscal year 2008 or fiscal year 2009 as authorized by chapter 167 or chapter 201 of the 2007 Session Laws of Kansas, by 2008 Senate Bill No. 534, or by this or other appropriation act of the 2008 regular session of the legislature, expenditures shall be made by the department on aging from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2008 and fiscal year 2009 to make payments under the state medicaid program to each nursing facility, upon re-opening, as a new nursing facility provider with a nursing facility provider medicaid rate determined under the provisions of K.A.R.30-10-17(b) and K.A.R. 30-10-18(e)(1)(A).

(2) As used in this subsection, "nursing facility" means a nursing facility which is located within a county designated by the United States federal emergency management agency under major disaster declaration FEMA-1711-DR and which was closed for a period of nine months or more as a result of such 2007 disaster caused by the flooding and other severe weather in Southeast Kansas.

Sec. 41.

KANSAS HEALTH POLICY AUTHORITY

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

Other medical assistance	
For the fiscal year ending June 30, 2008.....	\$14,000,000
For the fiscal year ending June 30, 2009.....	\$13,577,000

Sec. 42.

KANSAS PAROLE BOARD

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2009, the following:

Parole from adult correctional institutions.....	\$6,729”;
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And by renumbering the remaining sections accordingly, and **S Sub for HB 2946** be passed as amended.

A motion by Senator Lee to amend **S Sub for HB 2946** failed and the following amendment was rejected: page 21, in line 33, by adding \$249,269 to the dollar amount in line 33, and by adjusting the dollar amount in line 33, accordingly.

On page 23, in line 2, by adding 6.00 to the number in line 2 and by adjusting the number in line 2 accordingly.

A motion by Senator Lynn to amend **S Sub for HB 2946** failed and the following amendment was rejected: on page 23, in line 16, by adding \$1,569,674 to the dollar amount and by adjusting the dollar amount in line 16 accordingly;

A motion by Senator Steineger to amend **S Sub for HB 2946** failed and the following amendment was rejected: on page 1, in line 38, by subtracting \$80,000 from the dollar amount and by adjusting the dollar amount in line 38 accordingly;

On page 13, by striking all in lines 1 through 5;

A motion by Senator Steineger to amend **S Sub for HB 2946** failed and the following amendment was rejected: on page 10, by striking all in lines 2 through 9;

On page 12, in line 43, by subtracting \$164,298 from the dollar amount and by adjusting the dollar amount in line 43 accordingly;

On page 13, by striking all in lines 11 through 15;

On page 14, by striking all in lines 12 through 15;

A motion by Senator Haley to amend **S Sub for HB 2946** failed and the following amendment was rejected: on page 24, following line 27, by inserting the following:

“Sec. 47.

LEGISLATURE

(a) In addition to the other purposes for which expenditures may be made by the legislature from the moneys appropriated from the state general fund or from any special revenue fund for the legislature for fiscal year 2009, as authorized by section 69 of 2008 Senate Bill No. 534, or by this or any other appropriation act of 2008 regular session of the legislature, expenditures shall be made by the legislature from moneys appropriated from the state general fund or from any special revenue fund for the legislature for fiscal year 2009, to employ one full-time employee for administrative and secretarial duties on a year-round basis: *Provided*, That when authorizing employment for such year- round employees, the legislative coordinating council shall maintain the same legislator-to-employee ratio as occurs during the legislative session.”;

And by renumbering the remaining sessions accordingly;

A motion by Senator Lee to amend **S Sub for HB 2946** failed and the following amendment was rejected: on page 12, following line 37, by inserting the following material to read as follows:

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

Retiree 1.0 percent COLA payment	
For the fiscal year ending June 30, 2009.....	\$6,400,000
Retiree 1.0 percent COLA payment	
For the fiscal year ending June 30, 2010.....	\$13,100,000
Retiree 1.0 percent COLA payment	
For the fiscal year ending June 30, 2011.....	\$20,200,000

(e) (1) On July 1, 2008, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$6,400,000 from the expanded lottery act revenues fund to the state general fund for the purpose of reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service of \$36,146,303 for fiscal year 2009 as provided in section 85(a) of 2008 Senate Bill No. 534: *Provided*, That, if the appropriations made by subsection (d) are lapsed by subsection (e)(5), then no transfer shall be made pursuant to this subsection.

(2) On July 1, 2009, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$13,100,000 from the expanded lottery act revenues fund to the state general fund for the purpose of reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service which is projected to be approximately \$36,100,000 for fiscal year 2010, and paid from the state general fund: *Provided*, That, if the appropriations made by subsection (d) are lapsed by subsection (e)(5), then no transfer shall be made pursuant to this subsection.

(3) On July 1, 2010, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$20,200,000 from the expanded lottery act revenues fund to the state general fund for the purpose of reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service which is projected to be approximately \$36,100,000 for fiscal year 2011, and paid from the state general fund: *Provided*, That, if the appropriations made by subsection (d) are lapsed by subsection (e)(5), then no transfer shall be made pursuant to this subsection.

(4) During the fiscal years ending June 30, 2009, June 30, 2010, and June 30, 2011, in accordance with the provisions of K.S.A. 2007 Supp. 74-8768, and amendments thereto, the moneys transferred pursuant to the provisions of this subsection (e) from the expanded lottery act revenues fund to the state general fund are for the purpose of reduction of state debt by reimbursing the state general fund for a portion of the cost of providing the KPERS bond debt service which is projected to be approximately \$36,100,000 per fiscal year for the fiscal years ending June 30, 2009, June 30, 2010, and June 30, 2011, and paid from the state general fund.

(5) During the fiscal year ending June 30, 2009, if moneys are not available in the expanded lottery act revenues fund for transfer to the state general fund during the fiscal year ending June 30, 2009, as prescribed by subsection (e)(1), then, effective on July 1, 2008, pursuant to a determination by the director of the budget that such moneys are not available in the expanded lottery act revenues fund for transfer to the state general fund during fiscal year 2009, (A) the \$6,400,000 appropriated for the above agency for the fiscal year ending June 30, 2009, by subsection (d) from the state general fund in the retiree 1.0 percent COLA payment account, is hereby lapsed, (B) the \$13,100,000 appropriated for the above agency for the fiscal year ending June 30, 2010, by subsection (d) from the state general fund in the retiree 1.0 percent COLA payment account, is hereby lapsed, and (C) the \$20,200,000 appropriated for the above agency for the fiscal year ending June 30, 2011, by subsection (d) from the state general fund in the retiree 1.0 percent COLA payment account, is hereby lapsed.”;

On page 1, in the title, in line 10, by striking “and”; also in line 10, after “2010,” by inserting “and June 30, 2011.”;

Upon a showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 16, Nays 19, Present and Passing 3, Absent or Not Voting 2.

Yeas: Barnett, Barone, Betts, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Ostmeyer, Petersen, Schmidt V, Schodorf, Teichman.

Nays: Apple, Brownlee, Bruce, Brungardt, Donovan, Huelskamp, Journey, Lynn, Morris, Pine, Pyle, Reitz, Schmidt D, Taddiken, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Jordan, McGinn, Steineger.

Absent or Not Voting: Allen, Palmer.

The motion failed and the amendment was rejected.

A motion by Senator Brownlee to amend **S Sub for HB 2946** failed and the following amendment was rejected: on page 24, following line 27, by inserting the following material to read as follows:

“Sec. 47. (a) On July 1, 2008, of the \$38,575,818 appropriated for the state finance council for the fiscal year ending June 30, 2009, by section 2(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund for salaries increases for state officers and employees, the sum of \$19,287,909 is hereby lapsed.

(b) On July 1, 2008, of the \$229,430 appropriated for the state finance council for the fiscal year ending June 30, 2009, by section 2 (c)(1) of 2008 Senate Substitute for House Bill No. 2916, from the state economic development initiatives fund for salaries increases for state officers and employees, the sum of \$114,715 is hereby lapsed.

(c) On July 1, 2008, of the \$47,029 appropriated for the state finance council for the fiscal year ending June 30, 2009, by section 2(d)(1) of 2008 Senate Substitute for House Bill No. 2916, from the state water plan fund for salaries increases for state officers and employees, the sum of \$23,514.50 is hereby lapsed.

Sec. 48. (a) On July 1, 2008, of the \$21,499 appropriated for the legislative coordinating council for the fiscal year ending June 30, 2009, by section 5(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund in the legislative coordination council — operations account, the sum of \$10,749.50 is hereby lapsed.

(b) On July 1, 2008, of the \$102,316 appropriated for the legislative coordinating council for the fiscal year ending June 30, 2009, by section 5(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund legislative research department — operations account, the sum of \$51,158 is hereby lapsed.

(c) On July 1, 2008, of the \$88,460 appropriated for the legislative coordinating council for the fiscal year ending June 30, 2009, by section 5(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund office of revisor of statutes — operations account, the sum of \$44,230 is hereby lapsed.

Sec. 49. (a) On July 1, 2008, of the \$319,372 appropriated for the legislature for the fiscal year ending June 30, 2009, by section 6(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund in the operations (including official hospitality) account, the sum of \$159,636 is hereby lapsed.

Sec. 50. (a) On July 1, 2008, of the \$59,603 appropriated for the division of post audit for the fiscal year ending June 30, 2009, by section 7(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund in the operations (including legislative post audit committee) account, the sum of \$29,801.50 is hereby lapsed.

Sec. 51. (a) On July 1, 2008, of the \$3,165,592 appropriated for the judicial branch for the fiscal year ending June 30, 2009, by section 8(a) of 2008 Senate Substitute for House Bill No. 2916, from the state general fund in the judiciary operations account, the sum of \$1,582,796 is hereby lapsed.”;

A motion by Senator Umbarger to amend **S Sub for HB 2946** was withdrawn.

A motion by Senator Barone to amend **S Sub for HB 2946** was withdrawn.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **S Sub for HB 2946** was advanced to Final Action and roll call.

S Sub for HB 2946, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, and June 30, 2010, 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 section 86 of 2008 Senate Bill No. 534 and repealing the existing section.

On roll call, a call of the Senate was requested by five senators.

On roll call, the vote was: Yeas 21, Nays 18, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Bruce, Brungardt, Donovan, Emler, Jordan, Journey, McGinn, Morris, Ostmeyer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Vratil, Wagle, Wysong.

Nays: Barnett, Barone, Betts, Brownlee, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Kelly, Lee, Lynn, Pyle, Schodorf, Teichman, Umbarger, Wilson.

Absent or Not Voting: Palmer.

The substitute bill passed, as amended.

On motion of Senator D. Schmidt, the call of the Senate was lifted.

EXPLANATION OF VOTE

MR. PRESIDENT: I must again vote no on a major budget bill. We continue to spend far beyond our means. Our FY 2008 and FY 2009 cumulative overspending total amount has now grown to approximately 790 to 800 million dollars. We simply cannot sustain our great state with spending at these levels. — JIM BARONE

MR. PRESIDENT: I cannot support the work product in **S Sub for HB 2946**. We cannot continue to subvert the process. Additionally, we still have not cured our overspending habits. — KARIN BROWNLEE

MESSAGE FROM THE HOUSE

Announcing the House concurs in Senate amendments to **Senate Substitute for HB 2802**.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, May 2, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

