

Journal of the Senate

SIXTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Saturday, May 3, 2008—10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senator Palmer was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
Please find us a way to go home.
We're tired and we want to go to bed.
We've talked and we've talked far into the night,
And our brains feel almost dead.
Wherever we may roam,
Under this old green dome,
You'll probably hear us singing this song:
Find us a way to go;
Oh, how we want to go;
We really need to go home.
Thank You, Lord, for listening.

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

Announcing the House concurs in Senate amendments to **HB 2845** and requests the Senate to return the bill.

The House adopts the conference committee report on **HB 2359**.

The House adopts the conference committee report on **Senate Substitute for HB 2504**.

The House adopts the conference committee report on **HB 2620**.

The House adopts the conference committee report on **HB 2746**.

The House adopts the conference committee report on **HB 2772**.

Announcing the House announces the appointment of Representative C. Holmes to replace Representative Carlson as a conferee on **S Sub for HB 2412**.

Announcing passage of **SB 702, SB 703**.

CHANGE OF CONFERENCE

The President announced the appointment of Senator D. Schmidt a member of the Conference Committee on **HB 2617, HB 2707** to replace Senator Bruce.

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: **SB 196, HB 2307, S Sub for HB 2315**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 196**, submits the following report:

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

On page 2, in line 8, after "(b)" by inserting "(1)"; in line 11, by striking "\$50" and inserting "\$300"; after line 24, by inserting the following:

"(2) In addition, a separate report shall be made on a daily basis for the Thursday, Friday, Saturday and Sunday immediately preceding the election. Each daily report shall contain the information required in paragraph (1) of this section. Each report shall be filed by 5:00 p.m. on the next day respectively.";

Also on page 2, in line 39, by striking "act" and inserting "section"; after line 40, by inserting the following:

"New Sec. 3. (a) Every treasurer for a party committee or political committee shall file reports of contributions as prescribed by this act. Reports shall be filed with the secretary of state. Reports required by this section shall be in additions to any other reports required by law.

(b) (1) The report shall contain the name and address of each person who makes a contribution to the party committee or political committee in an aggregate amount or value in excess of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of the election. Such report shall contain the amount and date of each such contribution. The report shall be made on or before the close of business on the Thursday preceding the date of the election.

(2) In addition, a separate report shall be made on a daily basis for the Thursday, Friday, Saturday and Sunday immediately preceding the election. Each daily report shall contain the information required in paragraph (1) of this section. Each report shall be filed by 5:00 p.m. on the next day respectively.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.

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

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

(3) "Political committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the campaign finance act.

Sec. 4. K.S.A. 2007 Supp. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

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

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

- (3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;
- (4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;
- (5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.
- (b) Each report required by this section shall state:
- (1) Cash on hand on the first day of the reporting period;
 - (2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;
 - (3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;
 - (4) the aggregate amount of contributions for which the name and address of the contributor is not known;
 - (5) each contribution, rebate, refund or other receipt not otherwise listed;
 - (6) the total of all receipts;
 - (7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;
 - (8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;
 - (9) the aggregate of all expenditures not otherwise reported under this section; and
 - (10) the total of expenditures.
- (c) *In addition to the requirements of subsection (b), every treasurer for any political committee and party committee shall report the following:*
- (1) (A) *The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and*
 - (B) *the name and address of each candidate for state or local office who is the subject of an expenditure which:*
 - (i) *Is made without the cooperation or consent of a candidate or candidate committee;*
 - (ii) *expressly advocates the nomination, election or defeat of such candidate; and*
 - (iii) *is an aggregate amount or having a fair market value in excess of \$300.*
 - (2) *The report shall state the amount, date and purpose of the expenditure in the form of an in-kind contribution. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this subsection shall be in addition to all other requirements required by this section.*
- ~~(d)~~ (d) Treasurers of candidates and of candidate committees shall be required to itemize, as provided in subsection (b)(2), only the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.
- ~~(e)~~ (e) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, ~~name or~~ a description

~~sufficiently describing the affiliation or, if of the connection to or affiliation with such organization. If, the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.~~

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

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

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

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

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

Sec. 5. K.S.A. 25-4148a is hereby amended to read as follows: 25-4148a. When a report is made under this act and the amount being contributed by an individual is over \$150, the report shall list the occupation *and industry* of the individual contributor, ~~or if~~. If the individual contributor is not employed for compensation then the report shall list the occupation *and industry* of the contributor's spouse.

Sec. 6. K.S.A. 25-4157a is hereby amended to read as follows: 25-4157a. (a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

- (1) Legitimate campaign purposes;
- (2) expenses of holding political office;
- (3) contributions to the party committees of the political party of which such candidate is a member;
- (4) *any membership dues related to the candidate's campaign paid to a community service or civic organization in the name of the candidate;*
- ~~(5) any membership dues or~~ (5) any ~~membership dues or~~ donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate *but only if the candidate receives no goods or services unrelated to the candidate's campaign as a result of the payment of such donations;*
- ~~(6) expenses incurred in the purchase of tickets to meals and special events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; or~~
- ~~(7) expenses incurred in the purchase and mailing of greeting cards to voters and constituents.~~

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

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

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

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

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

Sec. 7. K.S.A. 25-4169a is hereby amended to read as follows: 25-4169a. (a) (1) No officer or employee of the state of Kansas, ~~or any county, any unified school district having 35,000 or more pupils regularly enrolled, any city of the first class or the board of public utilities of the city of Kansas City, Kansas municipality,~~ shall use or authorize the use of public funds or public vehicles, machinery, equipment or supplies of any such governmental agency or the time of any officer or employee of any such governmental agency, for which the officer or employee is compensated by such governmental agency, to expressly advocate the nomination, election or defeat of a clearly identified candidate to state office or local office. The provisions of this section prohibiting the use of time of any officer or employee for such purposes shall not apply to an incumbent officer campaigning for nomination or reelection to a succeeding term to such office or to members of the personal staff of any elected officer.

(2) *Except as otherwise provided in this section, no municipality shall permit or allow any person to distribute, or cause to be distributed, within any building or other structure owned, leased or rented by such municipality any brochure, flier, political fact sheet or other document which expressly advocates the nomination, election or defeat of a clearly identified candidate for state or local office unless each candidate for such state or local office is permitted or allowed to do so in the same manner.*

(3) *For the purposes of this subsection, the term municipality shall have the meaning ascribed to it in K.S.A. 12-105a and amendments thereto.*

(b) Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

Sec. 8. K.S.A. 25-4148a, 25-4157a and 25-4169a and K.S.A. 2007 Supp. 25-4148 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 12, by striking all after the semicolon; by striking all in line 13 and inserting “amending K.S.A. 25-4148a, 25-4157a and 25-4169a and K.S.A. 2007 Supp. 25-4148 and repealing the existing sections.”;

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

MIKE BURGESS
TED POWERS
TOM SAWYER
Conferees on part of House

TIM HUELSKAMP
ROGER P. REITZ
DONALD BETTS, JR.
Conferees on part of Senate

Senator Huelskamp moved the Senate adopt the Conference Committee Report on **SB 196**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 453**, submits the following report:

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

On page 4, in line 2, by striking "Kansas, Inc.," and inserting "the department of commerce";

On page 8, after line 8, by inserting the following:

"Sec. 6. K.S.A. 2007 Supp. 74-50,154 is hereby amended to read as follows: 74-50,154.

(a) As used in this act: (1) "*Business support services*" means *business counseling, technical assistance and business planning services provided to existing or prospective small businesses or entrepreneurs*;

(2) "*contributions*" means and includes the donation of cash or property other than used clothing in an amount or value of \$250 or more. Contributions shall be valued as follows:

(A) Stocks and bonds contributed shall be valued at the stock market price on the date of transfer;

(B) personal property items contributed shall be valued at the lesser of the item's fair market value or cost to the donor and may be inclusive of costs incurred in making the contribution. Such value shall not include sales tax;

(C) contributions of real estate are allowable for credit only when title of such real estate is in fee simple absolute and is clear of any encumbrances; and

(D) the amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers;

~~(2)~~ (3) "*department*" means *the department of commerce*;

(4) "*entrepreneur*" means *an individual creating a new business, service or product*;

(5) "*region*" means *multi-county areas as defined by the secretary of commerce*;

~~(3)~~ (6) "*regional business development fund*" means *an authorized and audited fund that is created by taxpayer contributions, interest income and investment income and is managed by the regional foundation board of directors for the purposes of economic and leadership development in the region*;

(7) "*regional foundation*" means any organization in Kansas that demonstrates capacity to provide economic development services to regions as defined by this act, and: (A) Has obtained a ruling from the internal revenue service of the United States department of treasury that such organization is exempt from income taxation under the provisions of section 501(c)(3) or 501(c)(6) of the federal internal revenue code;

(B) has been designated as a certified development company by the United States small business administration;

(C) has been designated as an economic development district by the United States department of commerce's economic development administration;

(D) has been organized as a regional planning commission under K.S.A. 12-744 et seq., and amendments thereto, or its predecessor, K.S.A. 12-716 et seq., and amendments thereto; or

(E) is incorporated in the state of Kansas as a nonstock, nonprofit corporation;

~~(4)~~ (8) "*regional leadership development*" means *training and education that enable a region to develop community leadership that strengthens the economic and social environment in that region*;

(9) "*rural community*" means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible; ~~and~~

~~(5)~~ (10) "*secretary*" means *the secretary of the department of commerce*;

(11) “small business” means an independently owned and operated business having fewer than 100 full-time equivalent employees;

(12) “taxpayer” means: (A) Any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act;

(B) any individual subject to the state income tax imposed by the provisions of the Kansas income tax act;

(C) any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated; or

(D) any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto; and

(13) “technology improvements” means a project that results in the ability of the region to enhance service in areas, including broadband access, web site creation, wireless internet services, computer programming, computer servers, computer networks, computer data-bases, electronic training modules, electronic media and any other technological areas deemed eligible by the secretary.

(b) For taxable years commencing after December 31, 2004, any taxpayer contributing to a regional foundation designated by the secretary of commerce, shall be allowed a credit, as provided in this act, against the tax imposed by the Kansas income tax act, the tax on net income of national banking associations, state banks, trust companies or savings and loan associations imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of the regional foundation is approved pursuant to this act.

(c) (1) On December 31, 2007, June 30, 2008, and each June 30 thereafter, each regional foundation shall transfer 5% of funds raised in the previous fiscal year from the marketing of the rural business tax credits to be credited to the enterprise facilitation fund created in K.S.A. 2007 Supp. 74-50,155, and amendments thereto.

(2) The secretary of commerce may adopt rules and regulations for the disbursement of regional foundation funds to the enterprise facilitation fund.

(d) (1) The secretary of commerce is hereby authorized to adopt rules and regulations for establishing criteria for evaluating proposals to designate regional foundations as defined by this act with the assistance of the secretary of revenue.

(2) The proposal shall set forth the program to be conducted, why the program is needed, the estimated amount to be invested in the program, composition of the board that shall be making investment decisions, policies stating the organization shall offer services to all counties in that region and the plans for implementing the program.

(3) The secretary of commerce shall select regional foundations pursuant to rules and regulations adopted pursuant to subsection ~~(c)(1)~~ (d)(1) to use the sale of credits to establish regional business development funds.

(4) The total amount of credits allowed under this act shall not exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; and \$2,000,000 per year for fiscal years 2007 through, and including, 2012. Each region as defined by this act shall receive an equal share of this allocation.

(5) Any credits not sold by such regional foundations shall be reclaimed by the secretary from such region and redistributed to other regions that sold all credits previously issued.

(6) The secretary shall annually review and approve or disapprove the proposal of each designated regional foundation for continued eligibility for tax credits. The department of commerce retains that right to reclaim credits in such cases the regional foundation closes or there is demonstrated violation of the organization’s policies. Changes to the investment policies of each regional foundation are subject to approval of the secretary.

(e) Each regional foundation shall administer a regional business development fund. The sums generated by contributions to each regional business development fund are intended to be distributed to qualified entrepreneurs for the purposes of economic and leadership development in the region. Such sums shall be allocated by each regional foundation as follows:

(1) Not less than 60% of such funds may be allocated for job creation or retention;

(2) *not more than 10% of such funds shall be allocated for administrative costs in overseeing particular projects; and*

(3) *the remaining funds may be allocated towards other eligible activities as provided in subsection (f) in a manner that fits the region's priorities and needs.*

(f) *Funds in the regional business development funds may be utilized by the regional foundation for one or more of the following eligible activities:*

(1) *Business start-ups;*

(2) *business expansion;*

(3) *business retention;*

(4) *business support services;*

(5) *regional leadership development;*

(6) *technology improvements; and*

(7) *administrative services.*

(g) *All interest generated on idle funds administered by the regional foundation shall be used by the foundation's board in accordance with subsections (e) and (f).*

(h) *Any regional foundation may increase or decrease the allocation percentages set forth in subsection (e) only upon approval of such adjustments by the secretary.*

(i) (1) The amount of credit allowed pursuant to this act, shall not exceed 75% of the total amount contributed during the taxable year by the taxpayer to a regional foundation approved pursuant to this act.

(2) If the amount of the credit allowed by this act, exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(j) The provisions of this act shall be applicable to all taxable years beginning after December 31, 2004.;

And by renumbering the remaining sections accordingly;

Also on page 8, in line 9, by striking "is" and inserting "and 74-50,154 are";

In the title, in line 12, after "concerning" by inserting "economic development; relating to"; in line 14, before "concerning" by inserting a semicolon; in line 15, before "amending" by inserting "relating to regional foundation funds;"; in line 16, after "12-5242" by inserting "and 74-50,154"; also in line 16, by striking "section" and inserting "sections";

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

JASON WATKINS

JOHN C. GRANGE

DOUG GATEWOOD

Conferees on part of House

KARIN BROWNLEE

NICK JORDAN

LAURA KELLY

Conferees on part of Senate

Senator Brownlee moved the Senate adopt the Conference Committee Report on **Sub SB 453**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2307**, submits the following report:

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

On page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 33 and inserting the following:

“Section 1. K.S.A. 25-433 is hereby amended to read as follows: 25-433. (a) The county election officer shall mail all official ballots with a return identification envelope and instructions sufficient to describe the voting process to each elector entitled to vote in the election on one date not sooner than the 20th day before the date of the election and not later than the 10th day before the date of the election. Ballots mailed by the county election officer shall be addressed to the address of each elector appearing in the registration records, and placed in an envelope which is prominently marked “Do Not Forward.” *Ballots shall not be mailed to any inactive voter who, based on information provided by the postal service, appears to have moved to a residence address outside the county in which the voter is currently registered and who has been mailed a confirmation notice as described in subparagraph (4) of subsection (e) of K.S.A. 25-2316c, and amendments thereto, or because a “Forwarding Order Expired” or “Moved — No Forwarding Address” notice was received from the post office. Any inactive voter who believes such voter is entitled to vote in the election may request a replacement ballot as provided for in subsection (d) of this section.*

(b) Upon receipt of the ballot the elector shall mark it, sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot. The elector may return the marked ballot to the county election officer by United States mail, if it is received by the county election officer by the date of the election, or personally deliver the ballot to the office of the county election officer before noon on the date of the election. The ballot shall be returned in the return identification envelope. The county election officer shall provide for the payment of postage for the return of ballot envelopes.

(c) The return identification envelope shall contain the following form:

I declare under penalty of election perjury, a felony, that I am a resident and a qualified voter for this election as shown on voter registration records and that I have voted the enclosed ballot and am returning it in compliance with Kansas law, and amendments thereto, and have not and will not vote more than one ballot in this election.

I also understand that failure to complete the information below will invalidate my ballot.

Signature

Residence Address

(d) If the ballot is destroyed, spoiled, lost or not received by the elector, the elector may obtain a replacement ballot from the county election officer as provided in this subsection. An elector seeking a replacement ballot shall sign a statement verified on oath or affirmation, on a form prescribed by the secretary of state, that the ballot was destroyed, spoiled, lost or not received. The applicant shall deliver the statement to the county election officer before noon on the date of the election. The applicant may mail the statement to the county election officer, except a county election officer shall not transmit a ballot by mail under this subsection unless the application is received prior to the close of business on the second day prior to the election. When an application is timely received under this subsection, the county election officer shall deliver the ballot to the voter if the voter is present in the office of the county election officer, or promptly transmit the ballot by mail to the voter at the address contained in the application, except when prohibited in this subsection. The county election officer shall keep a record of each replacement ballot provided under this subsection.

(e) A ballot shall be counted only if: (1) It is returned in the return identification envelope; (2) the envelope is signed by the elector to whom the ballot is issued; and (3) the signature has been verified as provided in this subsection. The county election officer shall verify the signature of each elector on the return identification envelope with the signature

on the elector's registration records and may commence verification at any time prior to the canvass of the election. If the county election officer determines that an elector to whom a replacement ballot has been issued under subsection (d) has voted more than once, the county election officer shall not count any ballot cast by that elector.

(f) The county election officer shall supervise the procedures for the handling and canvassing of ballots to insure the safety and confidentiality of all ballots properly cast.

(g) The names of voters whose mail ballot envelopes are returned to the county election officer as "undeliverable" shall be subject to removal from the voter registration book and party affiliation list in the manner provided in subsection (d) of K.S.A. 25-2316c, and amendments thereto.

Sec. 2. From and after July 1, 2008, K.S.A. 25-2021 is hereby amended to read as follows: 25-2021. (a) ~~In school districts in which a member district method of election is in effect, if there are more than two (2) qualified candidates for one (1) member position in any member district, the county election officer shall call, and there shall be held, a primary election in each such member district and, if there are more than two (2) qualified candidates for the at-large member position, the county election officer shall call, and there shall be held, a primary election in such school district. The names of the two (2) candidates receiving the greatest number of votes for any member position at the primary election shall appear on the ballots in the general election.~~

~~(b) In school districts having the election at large method, if there are more than two (2) times the number of candidates as there are board members to be elected, the county election officer shall call, and there shall be held, a primary election. The names of twice the number of candidates as there are board members to be elected who received the greatest number of votes at the primary election shall appear on the ballots in the general election.~~

~~(c) If a member is to be elected to fill an unexpired term the rules in this section shall be modified consistent with the provisions of this subsection. If there are more than two (2) candidates for such unexpired term, the county election officer shall call and there shall be held, a primary election. The names of the two (2) candidates for such unexpired term receiving the greatest number of votes shall appear on the ballots in the general election.~~

~~(d) No ballot in a primary school election shall have either names or write-in blanks for any board member position unless more than two (2) candidates have filed for such position.~~

(a) A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of school district board members shall be held unless by holding such primary two or more persons will be eliminated as candidates for office. In the event there are not more than three times the number of candidates as there are board members to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general school board election ballot.

~~(b)~~ *(b) On the ballots in general school elections, blank lines for the name of write-in candidates shall be printed at the end of the list of candidates for each different office equal to the number to be elected thereto. The purpose of such blank lines shall be to permit the voter to insert the name of any person not printed on the ballot for whom such voter desires to vote for such office. No lines for write-in candidates shall appear on primary school election ballots.*

Sec. 3. From and after July 1, 2008, K.S.A. 25-2108a is hereby amended to read as follows: 25-2108a. (a) There shall be a primary election of city officers on the Tuesday preceding by five weeks the first Tuesday in April of every year that such city has a city election, except as otherwise provided in subsection (b) of this section.

(b) A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of city officers shall be held unless by holding such primary ~~one (1) two~~ or more persons will be eliminated as candidates for office. In the event there are not more than ~~two (2) three~~ times the number of candidates ~~for any one office~~ as there are officers to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and

there shall be no primary election for such office, but the names of such candidates shall be placed on the general city election ballot.

Sec. 4. From and after July 1, 2008, K.S.A. 71-1415 is hereby amended to read as follows: 71-1415. (a) ~~In any college district having a district method and in which there are more than two candidates for a member position, the election officer shall call, and there shall be held, a primary election. The names of the two candidates receiving the greatest number of votes for any member position shall appear on the ballots in the general election.~~ — (b) ~~In any college district having the election-at-large method and in which there are more than two times the number of candidates as there are trustees to be elected, the election officer shall call, and there shall be held, a primary election. The names of twice the number of candidates as there are trustees to be elected who receive the greatest number of votes in the primary shall appear on the ballots in the general election.~~

(a) *A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of trustees shall be held unless by holding such primary two or more persons will be eliminated as candidates for office. In the event there are not more than three times the number of candidates as there are trustees to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general election ballot for the board of trustees.*

(b) ~~In the general election, there shall appear on the ballots a line appropriate for write-in candidates. No lines for write-in candidates shall appear on the primary election ballots.~~

New Sec. 5. (a) On and after the effective date of this act, any provision of a restrictive covenant which prohibits the display of political yard signs, which are less than six square feet, during a period commencing 45 days before an election and ending two days after the election is hereby declared to be against public policy and such provision shall be void and unenforceable.

(b) The provisions of this section shall apply to any restrictive covenant in existence on the effective date of this act.

Sec. 6. From and after July 1, 2008, K.S.A. 25-2021, 25-2108a and 71-1415 are hereby repealed.

Sec. 7. K.S.A. 25-433 is hereby repealed.

Sec. 8. From and after January 1, 2010, K.S.A. 25-433, as amended by Section 3 of 2008 Senate Bill No. 562, K.S.A. 25-2021, as amended by Section 4 of 2008 Senate Bill No. 562, 25-2108a, as amended by Section 5 of 2008 Senate Bill No. 562, 71-1415, as amended by Section 6 of 2008 Senate Bill No. 562 and Section 7 of 2008 Senate Bill No. 562 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all in lines 10 and 11 and inserting “AN ACT concerning elections; pertaining to mail ballot elections; pertaining to mailing of ballots to inactive voters in local question submitted elections conducted by mail ballot; pertaining to certain primary elections; pertaining to political yard signs; amending K.S.A. 25-433, 25-2021, 25-2108a and 71-1415 and repealing the existing sections; also repealing K.S.A. 25-433, as amended by Section 3 of 2008 Senate Bill No. 562, K.S.A. 25-2021, as amended by Section 4 of 2008 Senate Bill No. 562, K.S.A. 25-2108a, as amended by section 5 of 2008 Senate Bill No. 562 and K.S.A. 71-1415, as amended by Section 6 of 2008 Senate Bill No. 562 and Section 7 of 2008 Senate Bill No. 562.”;

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

TIM HUELSKAMP
 ROGER P. REITZ
 ANTHONY HENSLEY
Conferees on part of Senate

MICHAEL B. BURGESS

TED POWERS

TOM SAWYER

Conferees on part of House

Senator Huelskamp moved the Senate adopt the Conference Committee Report on **HB 2307**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2315**, submits the following report:

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

On page 4, in line 13, following the semicolon by inserting “and”; in line 14, by striking all following “(2)”; by striking all in lines 15 and 16; in line 17, by striking all preceding the period and inserting “two members shall be at-large members neither of whom shall be a home inspector”;

On page 6, in line 37, by striking “(a)”;

On page 7, in line 17, preceding “On” by inserting “(a)”; in line 18, by striking “under this act in the state of Kansas” and inserting “in section 1, and amendments thereto, in counties with a population of 60,000 or more”; in line 19, following the period by inserting the following:

“(b) On and after January 1, 2011, all individuals performing home inspections as defined in section 1, and amendments thereto, shall be required to file a written registration with the board.

“(c)”;

Also on page 7, in line 20, by striking “(a)” and inserting “(1)”; in line 21, by striking “(b)” and inserting “(2)”; also in line 21, following “equivalent” by inserting “, unless such individual is engaged in the practice of performing home inspections on the effective date of this act”; in line 22, by striking “(c)” and inserting “(3)”; in line 23, by striking “\$250,000” and inserting “\$100,000”; by striking all in lines 24 through 26; in line 27, by striking “(e)” and inserting “(4)”; in line 28, by striking “(1)” and inserting “(A)”; in line 29, by striking “(2)” and inserting “(B)”; in line 32, by striking “(3)” and inserting “(C)”; in line 38, by striking “(4)” and inserting “(D)”;

On page 8, in line 9, by striking “(f)” and inserting “(5)”; in line 13, by striking “(g)” and inserting “(6)”; in line 16, by striking “(h)” and inserting “(7)”; in line 18, by striking “(i)” and inserting “(8)”; in line 19, by striking “(1)” and inserting “(A)”; by striking all in lines 22 through 24 and inserting the following: “(B) (i) if the individual performs home inspections in counties with a population of 60,000 or more, have been actively engaged in the practice of conducting home inspections for not fewer than two years prior to the effective date of this act and have completed not less than 100 fee-paid home inspections; or

(ii) if the individual does not perform home inspections in counties with a population of 60,000 or more, have been actively engaged in the practice of conducting home inspections for not fewer than two years prior to the effective date of this act and have completed not less than 35 fee-paid home inspections.”;

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

“(f) All home inspectors registered under this act shall provide customers and clients with a completed pre-inspection notice prior to the home inspection.”;

Also on page 9, in line 24, by striking all following “13.”; by striking all in lines 25 through 27 and inserting the following:

“(a) It shall be unlawful for an individual to perform home inspections as defined in section 1, and amendments thereto, without being registered under this act if such individual is required to register with the board pursuant to section 10, and amendments thereto.

(b) Violation of this section is a class A nonperson misdemeanor.”;

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

KARIN BROWNLEE
NICK JORDAN
JIM BARONE
Conferees on part of Senate

STEVE BRUNK
MIKE S. KIEGERL
LOUIS E. RUIZ
Conferees on part of House

Senator Brownlee moved the Senate adopt the Conference Committee Report on **S Sub for HB 2315**.

On roll call, the vote was: Yeas 36, Nays 0, Present and Passing 2, Absent or Not Voting 2.

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

Present and Passing: Francisco, Huelskamp.

Absent or Not Voting: Palmer, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2936**, submits the following report:

The Senate recedes from its Committee of the Whole amendments to the bill;

The House accedes to the Senate Committee amendments to the bill;

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

DWAYNE UMBARGER
JAY SCOTT EMLER
LAURA KELLY
Conferees on part of Senate

SHARON SCHWARTZ
LEE TAFANELLI
BILL FEUERBORN
Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **S Sub HB 2936**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Betts, Haley, Hensley and D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1866—

A RESOLUTION in support and observance of an annual Juneteenth Day.

WHEREAS, June 19th is known in many places as Juneteenth. Juneteenth is the oldest known celebration of the ending of slavery; and

WHEREAS, On June 19, 1865, Union soldiers, led by Major General Gordon Granger, landed at Galveston, Texas with news that the war had ended and that all slaves were now free. This was two and a half-years after President Lincoln's Emancipation Proclamation which had become official January 1, 1863; and

WHEREAS, The Emancipation Proclamation had little impact on the Texans due to the minimal number of Union troops to enforce the new Executive order; and

WHEREAS, Attempts to explain this two and a half-year delay in the receipt of this important news have yielded several versions that have been handed down through the years. Whatever the reasons, slavery remained until that fateful day in June; and

WHEREAS, General Order Number 3 stated, "The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and free laborer"; and

WHEREAS, The reactions to this profound news ranged from pure shock to immediate jubilation. While many former slaves lingered to enter into an employer to employee relationship, many left before these offers were completely off the lips of their former masters; and

WHEREAS, The celebration of June 19 was coined "Juneteenth" and grew with more participation from descendants of the liberated slaves. It was a time for reassuring each other, for praying and for gathering remaining family members. Juneteenth continued to be highly revered in Texas decades later, with many former slaves and descendants making an annual pilgrimage back to Galveston on this date; and

WHEREAS, On January 1, 1980, Juneteenth became an official state holiday in Texas. Juneteenth today, celebrates African American freedom while encouraging self-development, diversity and respect for all cultures: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support a national Juneteenth holiday and encourage participation by all citizens in observance of Juneteenth as America's other "Independence Day"; and

Be it further resolved: That the Secretary of the Senate provide six enrolled copies of this resolution to Senator Derek Schmidt.

On emergency motion of Senator D. Schmidt **SR 1866** was adopted unanimously.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Betts introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1867—

A RESOLUTION recognizing May 5 as Cinco de Mayo and encouraging the celebration of Mexican and Hispanic culture and history in Kansas.

WHEREAS, Cinco de Mayo celebrates the triumph of a small Mexican army over the French army that outnumbered them by more than two-to-one at the "Battalla de Puebla" on May 5, 1862, in the Mexican town of Puebla; and

WHEREAS, The Mexican victory at Puebla became a symbol of Mexican unity and patriotism and inspired the Mexican people to fight with renewed determination; and

WHEREAS, May 5, or Cinco de Mayo, is a date of great importance for the Mexican and Mexican-American communities; and

WHEREAS, The battle commemorated by Cinco de Mayo is important to Mexico and Latin America for many reasons, especially because it filled the Mexican people with great pride and enthusiasm for their country, demonstrated that some of the best troops in Europe

could be defeated by a small but determined group and symbolized the people's right to self-determination and national sovereignty; and

WHEREAS, The United States sent forces to Mexico to help drive out the French and Mexico became one of the staunchest and most loyal allies of the United States, joining the United States in fighting many wars including World War II and the Persian Gulf War; and

WHEREAS, Mexicans never forget who their friends are, and neither do Americans, which is why Cinco de Mayo is a celebration of freedom and liberty, two ideals that Mexicans and Americans have fought shoulder-to-shoulder to protect ever since the 5th of May, 1862; and

WHEREAS, Cinco de Mayo is a national holiday in Mexico celebrated with speeches and parades and is also celebrated in many cities in the United States where it has become an opportunity to celebrate Hispanic culture; and

WHEREAS, Cinco de Mayo is celebrated in Kansas towns, especially in Kansas City, Wichita and Garden City, where festivities include Hispanic musical groups, Mexican food, children's dance troupes performing traditional Spanish dances and Hispanic artisans displaying their wares; and

WHEREAS, Cinco de Mayo has become a celebration for both Hispanics and non-Hispanics alike, educating people about Mexican history and celebrating Hispanic culture: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize May 5 as Cinco de Mayo, commemorate the battle of Puebla and encourage the celebration of Mexican and Hispanic culture and history in Kansas; and

Be it further resolved: That the Legislature of the State of Kansas hereby calls on all the people of Kansas to join in celebrating Cinco de Mayo as a day to honor the valiant spirit of the brave Mexicans who defended the town of Puebla and the Mexican-Americans of today who fought and died for the freedom of the United States of America.

On emergency motion of Senator Betts **SR 1867** was adopted unanimously.

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.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **House Substitute for SB 81**.

The House adopts the conference committee report on **HB 2307**.

The House adopts the conference committee report on **Senate Substitute for HB 2315**.

The House adopts the conference committee report on **Senate Substitute for HB 2936**.

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: **S Sub for HB 2119, S Sub for HB 2412, HB 2217, HB 2617, HB 2780**.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **H Sub for SB 81**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 81**, 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, after line 39, by inserting the following:
“(e) The provisions of this section shall not take effect until July 1, 2008.”;
- On page 2, after line 34, by inserting the following:
“(d) The provisions of this section shall not take effect until July 1, 2008.”;
- On page 17, in line 3, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 20, by striking all in lines 13 through 43;
By striking all on pages 21 and 22;
- On page 23, by striking all in lines 1 through 22; And by renumbering the remaining sections accordingly;
Also on page 23, in line 23, before “K.S.A” by inserting “On July 1, 2008.”; in line 34, by striking “\$3,000,000” and inserting “\$2,000,000”;
- On page 24, in line 24, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 33, in line 33, after “(3)” by inserting “The employer shall give the employee and such employee’s covered dependents reasonable notice of the right to continuation of coverage.”; also in line 33, by striking “insurer” and inserting “employer”;
- On page 38, in line 25, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 42, in line 37, before “K.S.A” by inserting “On July 1, 2008.”;
- On page 43, in line 25, after the period, by inserting “The employer shall give the employee and such employee’s dependents reasonable notice of the right to continuation of coverage. The terminated employee shall pay the employer the premium for the continuation of coverage and such premium shall be the same as that applicable to members or employees remaining in the group.”;
- On page 45, in line 36, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 47, in line 6, before “K.S.A” by inserting “On July 1, 2008.”; in line 42, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 48, in line 40, by striking all after “(d)”;
- by striking all in lines 41 through 43;
- On page 49, by striking all in lines 1 through 3 and inserting the following:
“(d) (1) Commencing with the 2009 plan year that begins January 1, 2009, if a state employee elects the high deductible health plan and health savings account, the state’s employer contribution shall equal the state’s contribution to any other health benefit plan offered by the state. The cost savings to the state for the high deductible health plan shall be deposited monthly into the employee’s health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended, for as long as the employee participates in the high deductible plan.
(2) If the employee had not previously participated in the state health benefits plan, the employer shall calculate the average savings to the employer of the high deductible plan compared to the other available plans and contribute that amount monthly to the employee’s health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.
(3) The employer shall allow additional voluntary contributions by the employee to their health savings account by payroll deduction up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.”;
- Also on page 49, in line 15, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 60, in line 9, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 62, in line 33, after the period, by inserting “Except that compliance with a medical home delivery system shall not be required of program participants receiving treatment in accordance with a religious method of healing pursuant to the provisions of K.S.A. 2007 Supp. 75-6501, and amendments thereto.”; after line 37, by inserting the following:
“(e) The provisions of this section shall not take effect until July 1, 2008.”;
- On page 64, in line 22, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 66, in line 11, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 68, in line 30, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 69, in line 30, before “K.S.A.” by inserting “On July 1, 2008.”;
- On page 70, by striking all in lines 39 through 43;

On page 71, by striking all in lines 1 through 29;

And by renumbering the remaining sections accordingly;

Also on page 71, in line 32, by striking all after "(a)"; by striking all in lines 33 through 35; in line 36, by striking "(b)"; by striking all in lines 38 through 41; in line 42, by striking "(d)" and inserting "(b)";

On page 72, in line 3, by striking "(e)" and inserting "(c)"; after line 4, by inserting the following:

"(d) The provisions of this section shall not take effect until July 1, 2008.";

Also on page 72, in line 5, before "The" by inserting "(a)"; in line 10, by striking "\$4,000,000" and inserting "\$1,500,000"; after line 10, by inserting the following:

"(b) The provisions of this section shall not take effect until July 1, 2008.";

Also on page 72, in line 11, before "K.S.A." by inserting "On July 1, 2008,"; after line 32, by inserting the following:

"Sec. 22. On July 1, 2008, K.S.A. 2007 Supp. 38-2001 is hereby amended to read as follows: 38-2001. (a) ~~The secretary of social and rehabilitation services~~ *Kansas health policy authority* shall develop and submit a plan consistent with federal guidelines established under section 4901 of public law 105-33 (42 U.S.C. 1397aa et seq.; title XXI).

(b) The plan developed under subsection (a) shall be a capitated managed care plan covering Kansas children from zero to 19 years which:

(1) Contains benefit levels at least equal to those for the early and periodic screening, diagnosis and treatment program;

(2) provides for presumptive eligibility for children where applicable;

(3) provides continuous eligibility for 12 months once a formal determination is made that a child is eligible subject to subsection (e);

(4) has performance based contracting with measurable outcomes indicating age appropriate utilization of plan services to include, but not limited to, such measurable services as immunizations, vision, hearing and dental exams, emergency room utilization, annual physical exams and asthma;

(5) shall use the same prior authorization standards and requirements as used for health care services under medicaid to further the goal of seamlessness of coverage between the two programs; and

(6) ~~will~~ *shall* provide targeted low-income children, as defined under section 4901 of public law 105-33 (42 U.S.C. 1397aa, et seq.), coverage subject to appropriations;

(7) *shall provide coverage, subject to appropriation of funds and eligibility requirements, for children residing in a household having a gross household income (A) for 2009, at or under 225% of the 2008 federal poverty income guidelines and (B) for 2010 and subsequent years, at or under 250% of the 2008 federal poverty income guidelines; the participants receiving coverage shall contribute to the payment for such coverage through a sliding-fee scale based upon ability to pay as established by rules and regulations of the Kansas health policy authority; and*

(8) *contains a provision which requires the newly enrolled participants with a family income over 200% of the federal poverty income guidelines to wait at least 8 months before participating in this program, if such participants previously had comprehensive health benefit coverage through an individual policy or a health benefit plan provided by any health insurer as defined in K.S.A. 40-4602, and amendments thereto. This waiting period provision shall not apply when the prior coverage ended due to loss of employment other than the voluntary termination, change to a new employer that does not provide an option for dependent coverage, discontinuation of health benefits to all employees, expiration of COBRA coverage period or any other situations where the prior coverage ended due to reasons unrelated to the availability of this program.*

(c) The ~~secretary~~ *Kansas health policy authority* is authorized to contract with entities authorized to transact health insurance business in this state to implement the health insurance coverage plan pursuant to subsection (a) providing for several plan options to enrollees which are coordinated with federal and state child health care programs, except that when contracting to provide managed mental health care services the ~~secretary~~ *Kansas health policy authority* shall assure that contracted entities demonstrate the ability to provide a full array of mental health services in accordance with the early and periodic screening,

diagnosis and treatment plan. The ~~secretary~~ *Kansas health policy authority* shall not develop a request for proposal process which excludes community mental health centers from the opportunity to bid for managed mental health care services.

(d) When developing and implementing the plan in subsection (a), the ~~secretary~~ *Kansas health policy authority* to the extent authorized by law:

(1) Shall include provisions that encourage contracting insurers to utilize and coordinate with existing community health care institutions and providers;

(2) may work with public health care providers and other community resources to provide educational programs promoting healthy lifestyles and appropriate use of the plan's health services;

(3) shall plan for outreach and maximum enrollment of eligible children through cooperation with local health departments, schools, child care facilities and other community institutions and providers;

(4) shall provide for a simplified enrollment plan;

(5) shall provide cost sharing as allowed by law;

(6) shall not count the caring program for children, the Kansas health insurance association plan or any charity health care plan as insurance under subsection (e)(1);

(7) may provide for payment of health insurance premiums, including contributions to a ~~medical~~ health savings account if applicable, *and, in conjunction with an employer sponsored insurance premium assistance plan, may provide that supplemental benefits be purchased outside of the capitated managed care plan*, if it is determined cost effective, taking into account the number of children to be served and the benefits to be provided; ~~and~~

(8) may provide that prescription drugs, transportation services and dental services are purchased outside of the capitated managed care plan to improve the efficiency, accessibility and effectiveness of the program; *and*

(9) *shall include a provision that requires any individual to be a citizen or an alien lawfully admitted to the United States for purposes of establishing eligibility for benefits under the plan and to present satisfactory documentary evidence of citizenship or lawful admission of the individual. The criteria for determining whether the documentation is satisfactory shall be no more restrictive than the criteria used by the social security administration to determine citizenship. A document issued by a federally-recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe, such as a tribal enrollment card or certificate of degree of Indian blood shall be satisfactory documentary evidence of citizenship or lawful admission.*

(e) A child shall not be eligible for coverage and shall lose coverage under the plan developed under subsection (a) of K.S.A. 38-2001, and amendments thereto, if such child's family has not paid the enrollee's applicable share of any premium due.

If the family pays all of the delinquent premiums owed during the year, such child will again be eligible for coverage for the remaining months of the continuous eligibility period.

(f) The plan developed under section 4901 of public law 105-33 (42 U.S.C. 1397aa et seq., and amendments thereto) is not an entitlement program. The availability of the plan benefits shall be subject to funds appropriated. The ~~secretary~~ *Kansas health policy authority* shall not utilize waiting lists, but shall monitor costs of the program and make necessary adjustments to stay within the program's appropriations.

(g) *Eligibility and benefits under the plan prescribed by subsection (b)(7) are not and shall not be construed to be entitlements, are for legal residents of the state of Kansas and are subject to availability of state and federal funds and to any state and federal requirements and the provisions of appropriation acts. If the Kansas health policy authority determines that the available federal funds and the state funds appropriated are insufficient to sustain coverage for the income eligibility levels prescribed by subsection (b)(7), a lower income level shall be adopted and implemented by the Kansas health policy authority, within the limits of appropriations available therefor, and all such changes shall be published by the Kansas health policy authority in the Kansas register.*

Sec. 23. On July 1, 2008, K.S.A. 2007 Supp. 75-7408 is hereby amended to read as follows: 75-7408. (a) On and after July 1, 2006, the Kansas health policy authority shall coordinate health care planning, administration, and purchasing and analysis of health data for the state of Kansas with respect to the following health programs administered by the state of Kansas:

(1) Developing, implementing, and administering programs that provide medical assistance, health insurance programs, or waivers granted thereunder for persons who are needy, uninsured, or both, and that are financed by federal funds or state funds, or both, including the following:

(A) The Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto;

(B) the health benefits program for children established under K.S.A. 38-2001 et seq., and amendments thereto, and developed and submitted in accordance with federal guidelines established under title XXI of the federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments thereto;

(C) any program of medical assistance for needy persons financed by state funds only, to the extent appropriations are made for such a program;

(D) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program; *and*

(E) the medicaid management information system (MMIS); ~~and~~

~~(F) a phased-in premium assistance plan to assist eligible low income Kansas residents with the purchase of private insurance or other benefits that are actuarially equivalent to the Kansas state employee health plan under a program authorized under subsection (a)(1). In program years one and two, subject to appropriation of funds and other eligibility requirements, eligible participants shall consist of families at and under 50% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year three shall consist of families at and under 75% of the federal poverty level. Subject to appropriation of funds and other eligibility requirements, eligible participants in program year four shall consist of families at and under 100% of the federal poverty level. The Kansas health policy authority is authorized to seek any approval from the centers for medicare and medicaid services necessary to accomplish the development or expansion of premium assistance programs for families;~~

(2) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2007 Supp. 39-7,121a through 39-7,121e, and amendments thereto; and

(3) administering any other health programs delegated to the Kansas health policy authority by the governor or by a contract with another state agency.

(b) Except to the extent required by its single state agency role as designated in K.S.A. 2007 Supp. 75-7409, and amendments thereto, or as otherwise provided pursuant to this act the Kansas health policy authority shall not be responsible for health care planning, administration, purchasing and data with respect to the following:

(1) The mental health reform act, K.S.A. 39-1601 et seq., and amendments thereto;

(2) the developmental disabilities reform act, K.S.A. 39-1801 et seq., and amendments thereto;

(3) the mental health program of the state of Kansas as prescribed under K.S.A. 75-3304a, and amendments thereto;

(4) the addiction and prevention services prescribed under K.S.A. 65-4001 et seq., and amendments thereto; or

(5) any institution, as defined in K.S.A. 76-12a01, and amendments thereto.

Sec. 24.

DEPARTMENT OF HEALTH AND ENVIRONMENT—DIVISION OF HEALTH

(a) The legislature, acting during the 2008 regular session, adopts the following specific recommendations providing funding for the following priorities for fiscal year 2009:

Primary care safety net clinics..... \$2,500,000

Sec. 25.

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..... \$1,500,000
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.

New Sec. 26. (a) There is hereby established the physician workforce and accreditation task force, which is referred to in this section as the task force. The task force shall be composed of 12 members appointed as follows: (1) Two members who are members of the medical faculty or administrators of the school of medicine of the university of Kansas medical center, of which one member shall be from the Kansas City campus and one member shall be from the Wichita campus, who shall be appointed by the dean of the school of medicine of the university of Kansas medical center; (2) two members who are practicing medicine in Kansas and are current or former participants in a Kansas graduate medical residency program who shall be appointed by the governor; (3) one member who shall be appointed by the state board of regents; (4) one member who is representative of the Via Christi Regional Medical Center who shall be appointed by the governing body of the Wichita Center for Graduate Medical Education; (5) one member who is representative of the Wesley Medical Center who shall be appointed by the governing body of the Wichita Center for Graduate Medical Education; (6) one member who shall be appointed by the Kansas health policy authority; (7) one member who is an administrator of a rural hospital who shall be appointed by the Kansas hospital association; (8) one member who is a legislator who shall be appointed by the president of the senate; (9) one member who is a legislator who shall be appointed by the speaker of the house of representatives; (10) one member who is a legislator who shall be appointed by the minority leader of the senate; and (11) one member who is a legislator who shall be appointed by the minority leader of the house of representatives.

(b) The speaker of the house of representatives shall designate one member to serve as chairperson of the task force and the president of the senate shall designate one member to serve as the vice-chairperson of the task force. The task force shall meet on call of the chairperson or on the request of seven members of the task force, subject to approval by the legislative coordinating council.

(c) Seven members of the task force shall constitute a quorum. All actions of the task force shall be taken by a majority of all members of the task force.

(d) The task force shall study and adopt recommendations regarding the physician work force and accreditation issues, including: (1) How best to maintain accreditation of graduate medical education programs sponsored by the university of Kansas school of medicine in Kansas City and Wichita, with special attention to maintaining the existing partnerships with Via Christi Regional Medical Center, Wesley Medical Center and the university of Kansas medical center - Wichita; (2) recommendations for the necessary and appropriate level of funding for graduate medical education sponsored by the university of Kansas; (3) alternative means of obtaining such funding; and (4) a strategic plan to accomplish such matters.

(e) The task force shall report its findings and recommendations to the committee on ways and means of the senate and the committee on appropriations of the house of representatives prior to the beginning of the 2009 regular session of the legislature.

(f) 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.

New Sec. 27. (a) The Kansas health policy authority, subject to appropriations, may establish a pilot program implementing access to care programs for outreach to increase enrollment of children in medicaid and healthwave with priority given to rural and safety net clinics, the cost of which shall not exceed \$550,000 per year.

(b) The Kansas health policy authority shall report its findings and any recommendations which the Kansas health policy authority may have concerning the pilot program established under this section to the governor, the joint committee on health policy oversight and the legislature annually.

(c) The provisions of this section shall expire on July 1, 2010.

(d) The provisions of this section shall not take effect until July 1, 2008.”;

And by renumbering the remaining sections accordingly;

Also on page 72, in line 33, before “K.S.A.” by inserting “On July 1, 2008.”; also in line 33, by striking “40-2119.”; in line 34, after “Supp.” by inserting “38-2001.”; in line 35, after “75-7401” by inserting “, 75-7408”; in line 38, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 15, after the semicolon by inserting “appropriations therefor.”; in line 16, by striking “40-2119.”; in line 17, after “Supp.” by inserting “38-2001.”; in line 18, after “75-7401” by inserting “, 75-7408”;

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

BRENDA LANDWEHR
DAVID CRUM
GERALDINE FLAHARTY
Conferees on part of House

SUSAN WAGLE
PETE BRUNGARDT
DAVID HALEY
Conferees on part of Senate

Senator Wagle moved the Senate adopt the Conference Committee Report on **S Sub for SB 81**.

On roll call, the vote was: Yeas 34, Nays 1, Present and Passing 2, Absent or Not Voting 3.

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

Nays: Hensley.

Present and Passing: Steineger, Wysong.

Absent or Not Voting: Betts, Palmer, Taddiken.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I reluctantly vote “aye” on the Conference Committee Report for **House Substitute for SB 81**. The Kansas Health Policy Authority and its exceptional staff, responded to the Legislature’s challenge to present a detailed 21 point plan to move us toward a healthier Kansas. In response, the Legislature carved an expert plan to shreds.

Despite the best efforts of the conference committee to craft meaningful legislation, **House Substitute for SB 81** does little to move the agenda of true health care reform forward. Instead of connecting more Kansans to primary care, this compromise is nothing but hollow promises predicated on programs that are not funded. Kansans are clamoring for less costly health access and delivery in primary and preventative care. **House Substitute for SB 81**, our only known legislative response, is not the answer that our constituents are seeking . . . or that they, and real reform, truly deserve. — DAVID HALEY

Senators Barnett, Francisco and Kelly request the record to show they concur with the “Explanation of Vote” offered by Senator Haley on **House Substitute for SB 81**.

MR. VICE PRESIDENT: I vote no on **House Substitute for SB 81**.

In her State of the State Address, Governor Sebelius urged the legislature to transform our ailing health care system by providing all Kansans with affordable health insurance.

This bill fails to meet her challenge.

While I appreciate the hard work of the conference committee, I am disappointed that all we have to give the people of Kansas is a list of hollow promises. Dental care for pregnant women, expanded cancer screening, opportunities for small business employers to purchase group health insurance, and affordable health care coverage for 24,000 low-income families

— all which were recommended by the Kansas Health Policy Authority this year — have been ignored.

2008 held great promise for health care reform in our state. For others to claim that this bill has fulfilled that promise is deceiving the people of Kansas. I am disappointed, as I believe our constituents will be disappointed, that we end this session no better off on health care reform than when we began four months ago. — ANTHONY HENSLEY

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **S Sub for HB 2119**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2119**, submits the following report:

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

On page 1, in line 26, after “(2)” by inserting “on any public highway or street”; by striking all in lines 36 through 43;

On page 2, by striking all in lines 1 through 13;

By renumbering the remaining sections accordingly;

On page 6, by striking all in lines 1 through 5; by striking all in line 12;

By renumbering the remaining paragraphs accordingly;

On page 8, in line 36, by striking “sec”; in line 37, by striking “tions 1 and 3” and inserting “section 1”;

On page 12, by striking all in line 28;

In the title, in line 11, by striking “and golf”; in line 12, by striking “carts”;

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

LES DONOVAN

DENNIS WILSON

MARK GILSTRAP

Conferees on part of Senate

GARY K. HAYZLETT

VIRGIL PECK, JR.

MARGARET LONG

Conferees on part of House

Senator Donovan moved the Senate adopt the Conference Committee Report on **S Sub for HB 2119**.

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

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schoendorf, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger, Taddiken.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2217**, submits the following report:

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

On page 1, by striking all in lines 15 through 43;

By striking all on page 2 and inserting the following:

“Section 1. From and after July 1, 2008, K.S.A. 2007 Supp. 79-2926 is hereby amended to read as follows: 79-2926. (a) Subject to the provisions of subsection (b), the director of accounts and reports shall prepare and prescribe forms for the annual budgets of all taxing subdivisions or municipalities of the state. Such forms shall show the information required by this act necessary and proper to disclose complete information as to the financial condition of such taxing subdivision or municipality, and the receipts and expenditures thereof, both past and anticipated.

(b) (1) From and after July 1, 2004 and based upon recommendations by the state department of education, the director shall prepare and prescribe forms for the annual budget and a summary of the proposed budget of school districts. The state department of education shall make such recommendations after considering the best practices and standards established by the government finance officers association and the association of school business officials.

(2) (A) The school district budget form shall include a separate table outlining the aggregate amount of expenditures for salaries and wages for the following categories:

- (i) Certified and noncertified administrators;
- (ii) persons employed full-time as teachers;
- (iii) other certified employees who are not employed full-time as teachers;
- (iv) classified employees;
- (v) other positions designated by the state department of education; and
- (vi) substitutes and other temporary employees.

(B) The school district budget form shall show the number of full-time employee positions specified in paragraph (A) of this subsection and the average salaries or wages for such positions.

(C) The school district budget form shall show any other information recommended by the state department of education.

(3) The summary of the proposed budget form shall include:

- (A) An overview of the proposed budget of the school district and the budgetary process;
- (B) a summary of the changes in the proposed budget from the previous budget year;
- (C) a summary of the estimated expenditures to be made and revenues to be received in the ensuing budget year and the sources of such revenue;
- (D) the internet website address for school building report cards compiled by the state department of education; and
- (E) any other information specified by the state department of education.

(4) Nothing in this subsection (b) shall be construed as limiting the authority of school districts to develop and provide material or information in addition to that required by the state department of education.

(5) The state department of education shall provide technical advice and assistance to school districts to insure compliance with the provisions of this section.

(c) All such budget and tax levy forms shall be printed by the division of printing in such quantity as required by the director. The director shall deliver the forms for school districts to the clerk of the board of education of each school district. The forms for all other taxing subdivisions or municipalities of the state shall be delivered by the director to the county clerk of each county, who shall deliver the same to the presiding officer of the governing body of the respective taxing subdivisions or municipalities within the county.

(d) *Beginning in 2009, all such forms required by this section, shall be in an electronic format to facilitate filing such forms electronically.*

Sec. 2. From and after July 1, 2008, K.S.A. 2007 Supp. 79-2929a is hereby amended to read as follows: 79-2929a. (a) The governing body of any taxing subdivision or municipality which is subject to the budget law provisions of K.S.A. 79-2925 through 79-2936, and amendments thereto, which proposes to amend its adopted current budget during the year in which such budget is in effect, shall be subject to the same publication, notice and public hearing requirements as required by K.S.A. 79-2929, and amendments thereto, for the adoption of the original budget. In addition, such published budget shall show any proposed changes in the amount of expenditures, by fund. Any proposed increase in expenditures shall be balanced by previously unbudgeted increases in revenue other than ad valorem property taxes. A copy of the adopted amended budget shall be filed with the county clerk

and with the director of accounts and reports. *Beginning in 2009, all such budget information shall be filed electronically with the county clerk and with the director of accounts and reports.*

(b) Whenever a clerical error in the calculation of the assessed valuation of any taxing subdivision or municipality which is subject to the provisions of K.S.A. 79-2925 through 79-2936, and amendments thereto, is discovered after the governing body has adopted the budget and prior to October 1, the governing body may amend such budget. Any budget amended pursuant to this subsection shall be subject to the same publication, notice and public hearing requirements as required by K.S.A. 79-2929, and amendments thereto, for the adoption of the original budget. A copy of such amended budget shall be filed with the county clerk and the director of the division of accounts and reports. *Beginning in 2009, all such budget information shall be filed electronically with the county clerk and with the director of accounts and reports.*

Sec. 3. From and after July 1, 2008, K.S.A. 2007 Supp. 79-2930 is hereby amended to read as follows: 79-2930. (a) Two copies of the budget certificate giving the amount of ad valorem tax to be levied and the total amount of the adopted budget of expenditures by fund, along with itemized budget forms for each and every fund and proof of publication of the notice of budget hearing containing the budget summary shall be presented to the county clerk within the time prescribed by K.S.A. 79-1801 and amendments thereto. *Beginning in 2009, all such budget information shall be filed electronically with the county clerk.* Where action has been taken under any statute to increase the amount of tax to be levied authorized by law, a statement showing the increased amount or tax levy rate voted, or a copy of the charter resolution or ordinance making the change, shall be attached to the budget each year the change is in effect.

(b) The county clerk shall make any reductions to the ad valorem tax to be levied, compute the tax levy rates based on the final equalized assessed valuation, and enter such on the budget certificate before attesting the budget, except that with regard to levies made under K.S.A. 75-2551, and amendments thereto, such levies shall be based upon the certified preliminary abstract of property values submitted to the director of property valuation pursuant to K.S.A. 79-1604, and amendments thereto. A copy of all budgets for taxing subdivisions of the county, properly attested, shall be filed with the director of accounts and reports, along with a copy of the tax levy rate summary required of the county treasurer by K.S.A. 79-2002, and amendments thereto. *Beginning in 2009, all such budget information shall be filed electronically with the director of accounts and reports.*

(c) Each fund of the adopted budget certified to the county clerk in no event shall exceed the amount of ad valorem tax to be levied and the proposed expenditures of such fund in the proposed budget as originally published. The governing body of each taxing subdivision shall not certify an amount of ad valorem taxes to be levied that is in excess of any tax levy rate or amount limitations or any aggregate tax levy limitations. The governing bodies, in fixing the amount may take into consideration and make allowance for the taxes which may not be paid, such allowance, however, shall not exceed by more than 5% the percentage of delinquency for the preceding tax year.

New Sec. 4. From and after July 1, 2008, any appointment to any board, commission, advisory group or other body made by the mayor of any city which is subject to approval of the governing body of the city must be acted upon by the governing body within 45 days of the appointment by the mayor or the appointment shall be deemed approved. The governing body of the city shall approve such appointment unless the governing body makes a specific finding by the passage of a resolution that the person is either unqualified to hold the office or is not fit to hold the office or position.

Sec. 5. From and after July 1, 2008, K.S.A. 2007 Supp. 12-1222 is hereby amended to read as follows: 12-1222. *Subject to the provisions of section 4, and amendments thereto,* upon the establishment of a library under this act the official head of a municipality shall appoint, with the approval of the governing body, a library board for such library. In the case of a county, except for Johnson county, or township library five members shall be appointed, one for a term expiring the first April 30 following date of appointment, one for a term expiring the second April 30, following date of appointment, one for a term expiring the third April 30 following date of appointment, and two for terms expiring the fourth April

30 following date of appointment. In the case of a city library seven members shall be appointed, one for a term expiring the first April 30 following date of appointment, two for terms expiring the second April 30 following date of appointment, two for terms expiring the third April 30 following date of appointment, and two for terms expiring the fourth April 30 following date of appointment. ~~In any city having a population of more than 250,000, The governing body of such any city may, as an alternative to the membership hereinabove provided for, appoint ten 10 members to the city library board, which members shall, when first appointed, begin serving on May 1, 1975, and shall have terms as follows: Six of such members first appointed shall serve for terms of four years and four of such members first appointed shall serve for terms of two years; thereafter, upon the expiration of the terms, successors shall be appointed in each odd-numbered year to fill the vacancies created, and thereafter each member shall serve for a term of four years. In addition to the appointed members of the board the official head of the municipality shall be ex officio a member of the library board with the same powers as appointed members, but no person holding any office in the municipality shall be appointed a member while holding such office.~~

Seven members shall be appointed to the Johnson county library board. Such members, when first appointed, ~~shall begin serving on May 1, 1985, and~~ shall have terms as follows: One for a term expiring the first April 30 following date of appointment, two for terms expiring the second April 30 following date of appointment, two for terms expiring the third April 30 following date of appointment, and two for terms expiring the fourth April 30 following date of appointment.

Upon the expiration of the terms of members first appointed succeeding members shall be appointed in like manner for terms of four years. Members of library boards holding office at the effective date of this act shall continue to hold their offices until April 30 following the expiration of the terms for which appointed, and on or before May 1 following the first expiration of a term a sufficient number shall be appointed by the official head of the municipality with the approval of the governing body for terms of four years to constitute a library board of the number of members prescribed by this act.

All members appointed to a library board shall be residents of the municipality. Vacancies occasioned by removal from the municipality, resignation or otherwise, shall be filled by appointment for the unexpired term. No person who has been appointed for two consecutive four-year terms to a library board shall be eligible for further appointment to such board until one year after the expiration of the second term. Appointments made prior to the effective date of this act shall not be counted in determining eligibility for appointment hereunder. Members of library boards shall receive no compensation for their services as such but shall be allowed their actual and necessary expenses in attending meetings and in carrying out their duties as members.

Sec. 6. From and after July 1, 2008, K.S.A. 2007 Supp. 12-5711 is hereby amended to read as follows: 12-5711. (a) The governing and administrative body of the authority shall be a board consisting of six members, to be known as the riverfront board. Members of the board shall be residents of Kansas. No member of the board shall be an elected official.

(b) Members shall not be paid a salary, but shall be reimbursed for actual expenses incurred by them in the performance of their duties.

(c) Members of the board shall be appointed as follows: *Subject to the provisions of section 4, and amendments thereto*, three shall be appointed by the mayor with the approval of the council and three shall be appointed by the commission. Of the first appointees, the council and mayor shall designate one member to serve a term of one year, one to serve two years and one to serve a three-year term. The commission shall designate the terms of its appointees likewise. Should the city and county consolidate, then the members shall be appointed by the governing body of the consolidated government as set forth above.

(d) Upon the expiration of the term of any member, all successor members of the board shall be appointed and hold office for terms of three years from the date of appointment. The city clerk or county clerk shall certify the action of the respective governing body with respect to such appointments and file such certificates as a part of the records of the office of either the city or county clerk. Before entering upon the duties of office, each member of the board shall take and subscribe the constitutional oath of office and same shall be filed in the office of the city clerk and county clerk.

(e) Any member may resign from office to take effect when a successor has been appointed and has qualified. The mayor, with the approval of the council and the commission, may remove any member of the board in case of incompetency, neglect of duty or malfeasance in office. The member shall be given a copy of the charges and an opportunity to be publicly heard in person or by counsel upon not less than 10 days' notice. In case of failure to qualify within the time required, or of abandonment of office, or in case of death, conviction of a crime involving moral turpitude or removal from office, the office of a member shall become vacant. A vacancy shall be filled for the unexpired term by appointment in the same manner as the original appointment.

(f) As soon as possible after the appointment of the initial members, the board shall organize for the transaction of business, select a chairperson and a temporary secretary from its members and adopt bylaws, rules and regulations to govern its proceedings. The initial chairperson and successors shall be elected by the board from time to time for the term of the chairperson's office as a member of the board or for the term of three years, whichever is shorter.

(g) Regular meetings of the board shall be held at least once each calendar month, the time and place of such meetings to be fixed by the board. Four members of the board shall constitute a quorum for the transaction of business.

(h) All action of the board shall be by resolution and the affirmative vote of at least three members shall be necessary for the adoption of any resolution. All such resolutions before taking effect shall be approved by the chairperson of the board and, if the chairperson approves thereof, the chairperson shall sign the same. If the chairperson does not approve any such resolution, the chairperson shall return it to the board with the chairperson's written objections thereto at the next regular meeting of the board occurring after the passage thereof. If the chairperson fails to return any resolution with the objections thereto by the prescribed time, the chairperson shall be deemed to have approved the same and it shall take effect accordingly. Upon the return of any resolution by the chairperson with the chairperson's objections, the vote by which such resolution was passed shall be reconsidered by the board. If upon reconsideration the resolution is passed by the affirmative vote of at least five members, it shall go into effect notwithstanding the veto of the chairperson. All resolutions and all proceedings of the authority and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as shall be kept or prepared by the board for use in negotiations, actions or proceedings to which the authority is a party.

Sec. 7. From and after July 1, 2008, K.S.A. 13-518 is hereby amended to read as follows: 13-518. The city clerk shall attend all meetings of the city council, keep a true record of its proceedings, and also keep a record of all official acts of the clerk, and, when necessary, shall attest them. The city clerk shall also keep and preserve them. ~~He or she~~ *The city clerk* shall also keep and preserve in the city clerk's office the corporate seal of the city, all records, public papers and documents of the city not belonging to any other office. The city clerk shall be authorized to administer oaths; and the copies of all papers filed in ~~his or her~~ *the city clerk's* office, and transcripts from the records of the proceedings of the council, including ordinances, duly certified by the city clerk under the corporate seal of the city, shall be taken as evidence in all courts of this state without further proof. The city clerk shall keep a correct account with the city and county of the financial affairs of the city treasurer, as may be provided by ordinance, and shall perform such other duties as may be prescribed by ordinance. *Subject to section 4, and amendments thereto*, the mayor may appoint one or more deputies, by and with the consent of the council; the salary of such deputy or deputies shall be fixed by ordinance.

Sec. 8. From and after July 1, 2008, K.S.A. 13-527 is hereby amended to read as follows: 13-527. *Subject to section 4, and amendments thereto*, the mayor, by and with the consent of the council, may appoint a city attorney, city prosecutor, city clerk, city treasurer, municipal judge of the municipal court, city engineer, director of public works, chief of police, policemen, and such other officers and employees as they may deem necessary for the best interests of the city, but no such officer shall be appointed until ~~his or her~~ *such officer's* term of office and salary shall have been fixed by ordinance; and all contracts of employment

of auditors, accountants, engineers, attorneys, counselors and architects for any special purpose shall be authorized by ordinance.

The term of all such officers shall be provided by ordinance: ~~Provided~~, In case of an appointment to fill a vacancy such appointee shall only serve for the remainder of the term for which ~~his or her~~ *the officer's* predecessor was appointed.

Sec. 9. From and after July 1, 2008, K.S.A. 13-1347 is hereby amended to read as follows: 13-1347. The governing body of any city or cities desiring to establish a board of park commissioners, as provided in K.S.A. 13-1346, *and amendments thereto*, may by ordinance cause a board of park commissioners to be created ~~and, thereafter~~, *Subject to the provisions of section 4, and amendments thereto*, the mayor, by and with the consent and approval of the board of commissioners, shall appoint five ~~freeholders~~ and residents of such city or cities, well known for their intelligence and integrity, as the members of such board of park commissioners, and shall designate one to serve for a term of one year, one for a term of two years, one for a term of three years, and two for a term of four years, and thereafter the members of such board of park commissioners shall hold their offices for a term of four years and until their successor or successors shall have been appointed and qualified, and in event of the death, resignation, or other disqualification of any member of such board of park commissioners, ~~his or her~~ *such* successor shall be appointed by the governing body to fill only unexpired terms caused by such vacancy.

Any member of said board of park commissioners may be removed by the governing body of such city for the same cause as any appointive officer: ~~Provided, however, That where any city shall have heretofore, under any act of which this act is amendatory or supplemental, appointed any board of park commissioners the terms of such members holding office at the effective date of this act shall not in any wise be affected but such members shall continue to serve until the expiration of their terms of office and thereafter until their successors shall have been appointed and qualified, and two additional members shall be appointed for terms of four years.~~

Sec. 10. From and after July 1, 2008, K.S.A. 14-201 is hereby amended to read as follows: 14-201. Except as provided in K.S.A. 12-1028a, and amendments thereto, there shall be elected on the first Tuesday in April of each odd-numbered year a mayor, council members and city treasurer. *Subject to the provisions of section 4, and amendments thereto*, the mayor shall appoint, by and with the consent of the council, a municipal judge of the municipal court, a city marshal-chief of police, city clerk, city attorney, and may appoint police officers and any other officers deemed necessary. Any officers appointed and confirmed shall hold an initial term of office of not to exceed one year and until their successors are appointed and qualified. Any officers who are reappointed shall hold their offices for a term of one year and until their successors are appointed and qualified. The council shall by ordinance specify the duties and compensation of the office holders, and by ordinance may abolish any office created by the council whenever deemed expedient.

The mayor, council members and city treasurer shall hold their offices for a term of two years.

Sec. 11. From and after July 1, 2008, K.S.A. 14-695 is hereby amended to read as follows: 14-695. *Subject to the provisions of section 4, and amendments thereto*, within 30 days after the addition of the territory the board of commissioners of such city or the mayor, by and with the consent of the council, shall appoint two electors residing in the added territory to the board of trustees to serve until the next regular city election and until their successors are elected and qualified, and the board of hospital trustees shall thereafter consist of five trustees, but at all times at least two of the trustees shall be residents of the city in the added territory. At the next regular city election, two trustees from the added territory shall be elected, one for a term of one year and one for a term of two years, and a successor to the trustee whose office expires under K.S.A. 14-604 and amendments thereto who may reside anywhere in the hospital territory. Successors to the short-term trustees shall be elected for three-year terms.

The board of hospital trustees is authorized to establish and fund pension and deferred compensation plans for hospital employees and to procure contracts insuring hospital employees, their dependents, or any class or classes thereof, under a policy or policies of life, disability income, health, accident, accidental death and dismemberment and hospital, sur-

gical and medical expense insurance. The employee's contribution, if any, to the plan and to the premium for such insurance may be deducted by the employer from the employee's salary when authorized in writing by the respective employee.

The board of hospital trustees shall also have authority to expend funds deemed necessary in recruitment or retention of professional staff including, but not limited to, the purchase of professional liability insurance for such staff.

Sec. 12. From and after July 1, 2008, K.S.A. 15-201 is hereby amended to read as follows: 15-201. Every two years an election shall be held for a mayor, and five council members. The mayor and council members shall hold their offices for two years and until their successors are elected and qualified.

Subject to the provisions of section 4, and amendments thereto, in case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist. *Subject to the provisions of section 4, and amendments thereto*, the mayor may, with the consent of the remaining council members, appoint a suitable elector to fill the vacancy.

In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor.

Sec. 13. From and after July 1, 2008, K.S.A. 15-204 is hereby amended to read as follows: 15-204. *Subject to the provisions of section 4, and amendments thereto*, the mayor, with the consent of the council, may appoint, at the first regular meeting of the governing body in May of each year, the following city officers: A municipal judge of the municipal court, a clerk, a treasurer, a marshal-chief of police, law enforcement officers and such other officers as deemed necessary. Such officers shall hold an initial term of office of not to exceed one year and until their successors have been appointed and qualified. Any officers who are reappointed shall hold their offices for a term of one year and until their successors are appointed and qualified. The duties and pay of the various officers shall be regulated by ordinance. Any officer may be removed by a majority vote of the total membership elected or appointed to the council and may be suspended at any time by the mayor.

Sec. 14. From and after July 1, 2008, K.S.A. 17-4757 is hereby amended to read as follows: 17-4757. (a) There is hereby created in each municipality a public body corporate and politic to be known as the "urban renewal agency" of the municipality. ~~Provided, That~~ Such agency shall not transact any business or exercise its powers hereunder until or unless the local governing body has made the finding prescribed in K.S.A. 17-4746, *and amendments thereto*, and has elected to have the urban renewal project powers exercised by an urban renewal agency as provided in K.S.A. 17-4756, *and amendments thereto*.

(b) *Subject to the provisions of section 4, and amendments thereto*, if the urban renewal agency is authorized to transact business and exercise powers hereunder, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of five ~~(5)~~ commissioners. Of the commissioners first appointed, one ~~(1)~~ shall be appointed for a term of one ~~(1)~~ year; one ~~(1)~~ for a term of two ~~(2)~~ years; one ~~(1)~~ for a term of three ~~(3)~~ years; and two ~~(2)~~ for a term of four ~~(4)~~ years. On the expiration of the term of each ~~of said commissioners, commissioner his, such commissioner's~~ successor shall be appointed for a term of four ~~(4)~~ years. Any vacancy shall be filled by appointment for the unexpired term.

(c) A commissioner shall receive no compensation for ~~his~~ services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of ~~his such commissioner's~~ duties. Each commissioner shall hold office until ~~his such commissioner's~~ successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting

business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number. Any persons may be appointed as commissioners if they reside within the area of operation of the agency (which shall be coterminous with the area of operation of the municipality) and are otherwise eligible for such appointments under this act.

The members shall elect a chairman and vice-chairman from among the commissioners. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. ~~For such legal service as it may require,~~ An agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this act shall file, with the local governing body, on or before March 31 of each year, a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency.

(d) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after ~~he~~ *such commissioner* shall have been given a copy of the charges at least ~~ten (10)~~ 10 days prior to such hearing and have had an opportunity to be heard in person or by counsel.

Sec. 15. K.S.A. 17-1367 is hereby amended to read as follows: 17-1367. Whenever the attorney general determines the existence of an abandoned cemetery in this state, the attorney general shall immediately proceed to dissolve the cemetery corporation owning the same. Upon the dissolution of such corporation, title to all property owned by the cemetery corporation shall vest in the municipality in which the cemetery is located, *and any liens, perfected or unperfected, against such property shall be immediately quashed, null and void and unenforceable on and after January 1, 2003,* and the permanent maintenance fund, together with all investments then outstanding, and all books, records and papers of such corporation shall be transferred to the treasurer of such municipality and shall become the property thereof. Upon the transfer of such property and funds, the governing body of such municipality shall care for and maintain such cemetery with any moneys of the cemetery corporation including the principal of and income from the permanent maintenance fund and, if such moneys are insufficient to properly maintain such cemetery, with funds of the municipality. The principal of and income from the permanent maintenance fund may be deposited in any appropriate fund of the municipality or may be invested in the manner provided in K.S.A. 17-1311, *and amendments thereto,* but shall be used exclusively for care and maintenance of such cemetery.

New Sec. 16. From and after July 1, 2008, whenever an agreement of consolidation of fire services pursuant to K.S.A. 12-3910 et seq., and amendments thereto, is made between or among the city of De Soto, Kansas and Johnson county fire district no. 3, the newly created consolidated fire district shall be known and designated as Northwest consolidated fire district.

Sec. 17. From and after July 1, 2008, K.S.A. 12-3913 is hereby amended to read as follows: 12-3913. (a) The resolution creating a consolidated fire district as provided by this act, shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the area subject to the proposed consolidation. If within 60 days following the last publication of the resolution, a petition in opposition thereto, signed by not less than 5% of the registered voters residing within each of the two or more areas proposed for consolidation is filed with the county election officer, the board shall order an election to be called and held within the areas proposed to be consolidated within 90 days after the filing of such petition in the manner provided for the calling and holding of elections under the general bond law. If a majority of the electors voting at such election shall approve the consolidation of such areas the board of county commissioners, by resolution, shall provide for the consolidation of such areas and define the boundaries of the area as con-

solidated. Any such consolidation shall be made prior to July 1 of any year to take effect on January 1 of the succeeding year.

(b) Any resolution creating a consolidated fire district shall provide for the dissolution or disorganization of the fire districts as they existed prior to the effective date of the creation of a consolidated fire district. The resolution creating a consolidated fire district also shall fix the amount of tax, not to exceed ~~11~~ 15 mills, that may be levied by the governing body of the consolidated fire district.

Sec. 18. From and after July 1, 2008, K.S.A. 12-3914 is hereby amended to read as follows: 12-3914. (a) Except as provided by subsection (b), upon the consolidation of any such areas the board of county commissioners shall appoint a governing body composed of at least three and not more than seven members who shall represent as nearly as possible, the geographical areas in the consolidated area. In the event that ~~two counties have joined together to create a consolidated fire district; the areas consolidated were, prior to consolidation, governed by more than one political or taxing subdivision as defined in K.S.A. 12-3902, and amendments thereto,~~ then the number of members on the governing board from each ~~county~~ subdivision shall be determined on the basis of population, but each ~~county~~ subdivision represented shall have at least one appointment to the board. *In the alternative, the members of the governing board may be selected by agreement among all the subdivision whose areas are consolidated. Unless otherwise agreed by the political or taxing subdivisions consolidating,* the members of the governing board shall be appointed as follows: Two members for a term of one year; two members for a term of two years; and three members for a term of three years. Thereafter, all members shall be appointed for a term of three years. All vacancies on the governing board shall be filled by appointment for the remainder of the unexpired term. Within 30 days after the governing body is appointed and annually thereafter, the governing body shall meet and organize by election from its membership a chairperson, vice-chairperson and treasurer. The treasurer shall give a corporate surety bond, conditioned for the faithful performance of duty and accounting for all moneys received thereby. Such bond shall be approved and be in the amount fixed by the governing body. The treasurer also shall serve as secretary to the board.

(b) The board or boards of county commissioners may serve as the governing body of ~~the~~ any consolidated fire district *formed by the joinder of two or more county fire districts* or may place the supervision of ~~the said~~ consolidated fire district under a fire district board of trustees. The board or boards of county commissioners may appoint a board of not less than three members and not more than nine members, composed of persons other than members of the board or boards of county commissioners, who shall serve at the pleasure of the board or boards of county commissioners. The fire district board of trustees, if appointed, may employ a supervisor and such other persons as may be necessary to properly operate and manage such consolidated fire district.

(c) *Notwithstanding the provisions of paragraphs (a) and (b) above, any consolidation of the De Soto, Kansas fire department with Johnson county fire district no. 3 shall have a governing body of five members appointed as follows: Two members appointed by the governing body of the city of De Soto; two members appointed by the board of county commissioners of Johnson county; one member appointed alternately by the city of De Soto and by the board of county commissioners of Johnson county, provided that the initial appointment of said fifth member shall be made by the board of county commissioners of Johnson county. No more than two governing body members shall be elected or appointed officials of the city of De Soto, Kansas and no more than two governing body members may be elected or appointed officials of the current fire district no. 3 or of Johnson county government.*

(d) *Governing body members appointed under the procedure set out in subsection (c) above shall serve three year terms, with the initial terms staggered as follows: One member appointed by the city of De Soto, Kansas shall serve an initial term of one year and the other city appointment shall serve an initial term of two years; one member appointed by the board of county commissioners shall serve an initial term of one year and the other county appointment shall serve an initial term of two years; the fifth member shall serve an initial term of three years.*

Sec. 19. From and after July 1, 2008, K.S.A. 2007 Supp. 12-3915 is hereby amended to read as follows: 12-3915. The governing body of any fire district created pursuant to this act shall have the authority to:

- (a) Levy taxes and special assessments as provided by law. Except as provided by K.S.A. 12-3913, and amendments thereto, the governing body shall fix the amount of the tax, not to exceed ~~15~~ 15 mills, to be levied upon all taxable tangible property in the consolidated fire district;
- (b) enter into contracts;
- (c) acquire and dispose of real and personal property;
- (d) acquire, construct, reconstruct, equip, operate, maintain and furnish buildings to house fire-fighting equipment;
- (e) acquire, operate and maintain fire-fighting equipment;
- (f) issue general obligation bonds and no-fund warrants;
- (g) pay compensation and salaries to fire district employees;
- (h) exercise eminent domain;
- (i) pay the operation and maintenance expenses of the fire district and other expenses legally incurred by the district;
- (j) select regular employees, provide for their compensation and furnish quarters for such employees if deemed desirable;
- (k) provide for the organization of volunteer members who may be compensated for fighting fires, responding to emergencies or attending meetings;
- (l) provide special clothing and equipment for such employees and volunteers;
- (m) insure such employees and volunteers against accidental death and injury in the performance of their duties;
- (n) pay for the acquisition, installation or maintenance of one or more fire hydrants, or similar devices for fighting fires, including necessary equipment, services or supplies related thereto.

The acquisition, installation and maintenance shall be subject to the mutual agreement of the governing body of the fire district and the governing body of the rural water district which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed; and

- (o) do all things necessary or desirable to maintain and operate such department so as to furnish fire protection for the inhabitants of the district and otherwise effectuate the purposes of this act.

Sec. 20. From and after July 1, 2008, K.S.A. 12-3916 is hereby amended to read as follows: 12-3916. (a) Subject to the provisions of subsection (b), the books, papers, equipment and other real and personal property belonging to the departments consolidated pursuant to this act shall be transferred to and shall become the property of the consolidated district, *subject to any debts, leases or other obligations that encumber such property.*

(b) ~~All funds in the treasury of any such fire district at the time of consolidation shall~~ *on the effective date of consolidation may be applied to the payment of any outstanding indebtedness, including bonded indebtedness, of such fire district, and may be transferred to the treasury of the newly created consolidated fire district as determined by the board of county commissioners. Any debt service fund of such fire district at the time of consolidation may be transferred to the newly created consolidated fire district. Any money transferred from the debt service fund of the fire district shall be credited to a debt service fund in the newly created consolidated fire district. The debt service fund of the newly created consolidated fire district shall be kept separate from any other debt service fund.*

Sec. 21. From and after July 1, 2008, K.S.A. 12-3918 is hereby amended to read as follows: 12-3918. The consolidation of any fire district under the provisions of this act shall not affect the rights of any firefighter serving in the department of such district to benefits under any retirement or relief association program *accrued prior to the consolidation, however the newly created consolidated fire district may provide different benefits than those previously provided to the employees of the fire districts or departments that are consolidated.*

Sec. 22. From and after July 1, 2008, K.S.A. 19-3614a is hereby amended to read as follows: 19-3614a. Whenever an agreement of consolidation between Johnson county con-

solidated fire district no. 2 and Mission fire district no. 1 is filed in the office of the county clerk, the county board shall at that time appoint three of the former members of the governing body of Johnson county consolidated fire district no. 2 and two of the former members of the governing body of Mission fire district no. 1, and the five members so appointed shall be and constitute the governing body of the district. As soon as such duly appointed members are appointed and qualified, the terms of the former members of the Johnson county consolidated fire district no. 2 and Mission fire district no. 1 shall thereupon be terminated. *On July 1, 2008, or at its next meeting thereafter, the board of county commissioners shall appoint two additional members to the governing body of Johnson county consolidated fire district no. 2.* The county board shall designate the terms for which each of such ~~five~~ *seven* members of the governing body shall serve, and they shall be governed by all of the rules, regulations, requirements, duties and obligations set forth for members of the original districts.

The newly created consolidated fire district shall be known and designated as Johnson county consolidated fire district no. (_____).

New Sec. 23. From and after July 1, 2008, the board of county commissioners may establish a county service taxing district in any portion of the county encompassing the boundaries of a township which has been dissolved or disorganized as a result of the consolidation or attachment of its territory to another township or townships or where the duties of the township have been transferred to the county by adoption of a resolution. The resolution shall specify the service or services to be provided within the county service taxing district.

Upon passage of a resolution authorizing the creation of a county service taxing district, the board of county commissioners shall cause to be published twice in the official county newspaper of the county the resolution. The resolution shall include a general description of the territory to be included within the area, the type of service or services to be undertaken in the area, a statement of the means by which the service or services will be financed, and a designation of the county agency or officer who will be responsible for supervising the provision of the service or services. The county service taxing district shall be deemed established 60 days after the second publication of the resolution or at such later date as may be specified in the resolution.

Upon receipt of a petition signed by a majority of the qualified voters within the territory of the proposed county service taxing district prior to the effective date of its creation, the creation of the district shall be abandoned.

Upon adoption of the next annual budget following the creation of a county service taxing district the board of county commissioners shall include in such budget appropriate provisions for the operation of the taxing district including, as appropriate, a property tax levied only on property within the boundaries of the taxing district, the levy of a service charge against the users of such services within the area, or the imposition of special assessments or by any combination thereof. The levy and collection of such special assessments shall be made in accordance with the procedure required by K.S.A. 12-6a08 to 12-6a12, and amendments thereto.

After its creation, a county service taxing district shall be dissolved by the board of county commissioners upon receipt of a petition calling for the dissolution of such county service taxing district signed by a majority of the qualified voters residing within the territory of the county service taxing district.

Sec. 24. From and after July 1, 2008, K.S.A. 75-1122 is hereby amended to read as follows: 75-1122. (a) The governing body of every unified school district, the governing body of every recreation commission having aggregate annual gross receipts in excess of \$150,000 and the governing body of all other municipalities either having aggregate annual gross receipts in excess of \$275,000 or which has general obligation or revenue bonds outstanding in excess of \$275,000 shall have its accounts examined and audited by a licensed municipal public accountant or accountants or certified public accountant or accountants at least once each year. In the case of school districts, all tax and other funds such as activity funds and accounts shall also be examined and audited.

~~(b) Any municipality required to have an annual audit for the first time under this section shall be exempt from the requirement if the municipality sends to the division of accounts~~

~~and reports a written request for assistance in complying with the required accounting procedures of K.S.A. 75-1121, and amendments thereto. The exemption shall continue until the assistance is rendered by the division of accounts and reports.~~

~~(c) (b) The governing body of any city of the third class required to have its accounts examined and audited pursuant to the provisions of this section shall annually determine the total cost to be incurred by the city in complying with the requirements of this act and shall identify the same in the budget of the city.~~

~~(d) Each year the township board of any township required to have an annual audit may adopt a resolution requesting the director of accounts and reports to exempt the township from the requirements of this section. The resolution shall be submitted prior to the end of the fiscal year. Upon receipt of the resolution, the director of accounts and reports shall waive the requirement for an audit for such year.~~

Sec. 25. From and after July 1, 2008, K.S.A. 2007 Supp. 80-120 is hereby amended to read as follows: 80-120. (a) The township board of any township may adopt a resolution proposing to transfer all powers, duties and functions of the township board to the board of county commissioners of the county in which such township is located. Such resolution shall be submitted to the qualified electors of the township at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. If a majority of the voters voting thereon vote in favor thereof, all powers, duties and functions of such township board shall be transferred to the board of county commissioners of the county in which such township is located.

(b) Upon approval of the resolution by the voters, the township board shall pay over to the county treasurer of such county any and all unused money or funds or surplus funds in the hands of such township board which have been received or acquired by such township from any source. Upon receipt of the funds and moneys, the county treasurer shall credit the same to a special fund for each such township *unless the board of county commissioners by a 2/3 vote of all members of the board determines that all duties and funds transferred by the township shall be assumed by the county in which case such funds shall be deposited in the county general fund.*

If a special fund is created, the board of county commissioners shall expend the moneys in such special fund for the exercise of the powers, duties and functions imposed by law upon township boards in the township from which it was received. The county treasurer shall credit and transfer to such special fund of each township all tax moneys in the treasurer's hands on the date the resolution was approved by the voters which were received by the treasurer in payment of taxes levied by such township for such purposes and all such taxes thereafter collected by the treasurer. The treasurer shall credit and transfer all other moneys in the treasurer's hands on the date the resolution was approved by the voters which were received by the treasurer for the use of such township for such purposes.

(c) Upon approval of the resolution by the voters, the township board shall turn over and deliver to the board of county commissioners of such county any and all assets and property such township has acquired. Following the transfer of all assets and property to the board of county commissioners, the township board of such township shall be and is hereby abolished.

(d) *Unless the board of county commissioners determines that all duties and funds of the township shall be assumed by the county as provided in subsection (b),* on or before the first Monday in July of each year the board of county commissioners shall prepare a budget of expenditures for the exercise of the powers, duties and functions transferred to the county. The board shall itemize the expenses and amounts and the purposes therefor. Subject to the same limitations imposed by law on township boards, the board of county commissioners are hereby authorized to levy a tax upon all assessed taxable tangible property of the township sufficient to raise the amount for such expenditures. The money derived from such levy shall be deposited in the county treasury and credited to the special fund established pursuant to subsection (b).

~~(e) Upon presentation of a petition, signed by at least 20% of the qualified electors of the township, to the board of county commissioners requesting the board to adopt a resolution to return to the township board the powers, duties and functions transferred pursuant to this section, the board shall adopt a resolution to return to the township board the powers,~~

duties and functions so transferred. Such resolution first shall be submitted to approval of the qualified electors of the township. Such election shall be called and held in the manner provided by the general bond law. No such petition shall be submitted to the board for at least two years following approval of a resolution pursuant to subsection (a). If the resolution is approved by a majority of the qualified electors of the township voting at such election, the board of county commissioners shall appoint a township board who shall hold office until successors are elected and qualified at the next regular general election of the township.

New Sec. 26. From and after July 1, 2008: (a) The board of county commissioners may disorganize any township if any of the following apply:

- (1) The number of residents in the township shall become less than 200;
- (2) a vacancy exists in the office of township trustee, clerk or treasurer for two consecutive years; or
- (3) the township fails to file an annual budget for two consecutive years.

The territory of any township disorganized under this section shall be attached to one or more townships which are contiguous to such township.

(b) The board of county commissioners desiring to disorganize a township under this section shall adopt a resolution stating the county is considering the disorganization of such township. The resolution shall:

- (1) Give notice that a public hearing will be held to consider the disorganization and fix the date, hour and place of the public hearing. Unless the board determines adequate facilities are not available, the public hearing shall be held at a site located within such township. The site and time of the hearing shall be held at a location and time determined to be the most convenient for the greatest number of interested persons.
- (2) A copy of the resolution providing for the public hearing shall be published in a newspaper of general circulation of the township.

(c) Following the public hearing the board may pass a resolution disorganizing the township and attaching the territory to one or more adjacent townships. The resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation of the township. The resolution shall take effect 60 days after the final publication unless a petition signed by electors of such township equal in number to at least 10% of the electors who voted at the last general election is presented to the county clerk calling for an election on the issue. Such proposition may be submitted at the next general election held in such townships or at special elections called for that purpose by the board of county commissioners, and shall be submitted on a separate ballot in substantially the following form:

Proposition to consolidate _____ township
(name of township)
 with _____ township(s).
(name of township or townships)
 Yes No

If a majority of the votes cast in such township in such election shall be in the affirmative, it shall be the duty of the board of county commissioners of such county to disorganize such township and attach the territory to such other township or townships. The expenses of such election shall be paid by the county from the county general fund.

Sec. 27. From and after July 1, 2008, K.S.A. 80-1101a is hereby amended to read as follows: 80-1101a. Such disorganization of a township hereunder shall be effective upon the filing with the county clerk of such county the resignation of the elective incumbent officers of such township ~~and~~ or, in any event, at the expiration of the term of office of such incumbents.

Sec. 28. From and after July 1, 2008, K.S.A. 80-1102a is hereby amended to read as follows: 80-1102a. If any such township so disorganized shall at the time of its disorganization have any ~~floating~~ indebtedness, the board of county commissioners shall provide for the payment thereof in the manner provided in K.S.A. 80-1103 and 80-1104, ~~and amendments thereto~~. If such township has any bonded indebtedness the obligation shall remain a charge upon the territory of the disorganized township in accordance with the applicable provisions of K.S.A. 10-119, ~~and amendments thereto~~. The effective date of such township disorganization, the provisions for the naming of townships, the determination of boundaries and

polling places, the transfer of records, funds and property other than funds to pay floating indebtedness shall be determined as provided by the provisions of K.S.A. 80-1101a, ~~80-1107 and 80-1108 and amendments thereto.~~

Any road construction and maintenance agreement which had been entered into between the township to be disorganized and the county under K.S.A. 68-572, *and amendments thereto*, shall terminate when money and equipment belonging to the disorganized township are delivered ~~as provided by K.S.A. 80-1108 to the county.~~

Sec. 29. From and after July 1, 2008, K.S.A. 80-1103 is hereby amended to read as follows: 80-1103. If any township so disorganized shall at the time of its disorganization have ~~a floating~~ *any* indebtedness, it shall be the duty of the county commissioners of the county to provide for the payment of such outstanding indebtedness by making a levy of taxes therefor upon all real and personal property in the territory comprising such disorganized township at the time of its disorganization, which tax shall be entered by the clerk of the county on the tax roll the same as other taxes. ~~Provided, That~~ No such levy shall exceed ten mills on the dollar of the assessed valuation in any one year; that the county treasurer shall keep the money collected from such township in a special fund, and the county commissioners are authorized to audit the floating indebtedness of said disorganized township, and issue warrants upon the funds thus provided in payment of said floating indebtedness.

Sec. 30. From and after July 1, 2008, K.S.A. 80-1104 is hereby amended to read as follows: 80-1104. The books, papers, funds and any other assets belonging to such township so disorganized shall be delivered over by the officers thereof to the county commissioners, who shall dispose of said assets, and all money received therefor shall be included in the special fund provided for in K.S.A. 80-1103, ~~and disposed of as therein provided and amendments thereto.~~

Sec. 31. From and after July 1, 2008, K.S.A. 80-1109 is hereby amended to read as follows: 80-1109. Two ~~(2)~~ or more townships ~~located in the same state representative district~~ may consolidate into a single township which may be one of the consolidated townships or a new township to be formed by means of such consolidation. The members of the township boards or a majority of them on the respective boards shall by resolution declare such consolidation to be desirable and arrange for a meeting between the respective boards. ~~Said~~ *Members of township* boards may enter into an agreement signed by ~~them~~ *such members* prescribing the terms and conditions of the consolidation and designate the officers of the township until new township officers are elected and take office as ~~now~~ provided by law. Such resolutions of the agreement and consolidation duly certified by the respective township clerks shall be presented to the board of county commissioners of the county in which said townships are situated by delivering the same to the county clerk of said county. Within ~~ten (10)~~ 10 days after such receipt by the county commissioners they shall call an election, noticed and called in the manner as bond elections under the general bond law in said townships for the purpose of approval or disapproval of agreement of consolidation. The ballot used in such elections shall conform to the provisions of K.S.A. 25-605, *and amendments thereto*, and the question shall be stated substantially as follows: "Shall the township of _____ and the township of _____ be consolidated into one township and the new township named _____?" If a majority of the qualified electors in each township shall vote to consolidate, the board of county commissioners shall adopt a resolution certifying that the consolidation is in effect in accordance with the agreement and the respective townships shall thereupon be considered disorganized.

Sec. 32. From and after July 1, 2008, K.S.A. 80-1110 is hereby amended to read as follows: 80-1110. Townships located in counties which have adopted the county unit road system ~~in the manner~~ as provided by K.S.A. 68-515b, *and amendments thereto*, or *in townships having more than 200 residents* may be disorganized and the territory or parts thereof attached to any other township or townships within such county which are contiguous with the township or any one of the townships being disorganized, in the manner hereinafter provided.

Sec. 33. From and after July 1, 2008, K.S.A. 80-1111 is hereby amended to read as follows: 80-1111. Whenever the board of county commissioners of any such county shall determine that it is in the best interests of the inhabitants of any township or townships located within such county to disorganize the same, such board shall adopt a resolution

stating its intentions to disorganize such township or townships and the attachment of the territory of the same to another township or townships within the county. Such resolution shall fix a time, which shall be not less than thirty-two (32) and not more than forty (40) 40 days after the date of the last publication of such resolution, and a place, within such township or townships or at such other place within such county as shall be designated by the board of county commissioners, for the holding of a hearing or hearings upon the question of disorganizing such township or townships. Such resolution shall also contain a statement that unless a petition, signed in such a manner as to substantially identify the elector signing the same, by a majority of the electors of any township proposed to be disorganized, as shown by the returns of the general election next preceding the filing of such petition, opposing the disorganization of such township, is filed in the office of the county clerk within thirty (30) 30 days after the date of the last publication of such resolution, such township or townships will be disorganized. Such resolution shall be published once each week for two (2) consecutive weeks in a newspaper having general circulation in the township or townships proposed to be disorganized and a copy thereof sent to the clerk of the township board of such township or townships.

If a petition in opposition is not filed in compliance with the provisions of this section, then the board of county commissioners shall adopt a resolution disorganizing such township, attaching the same or portions thereof as herein provided and make such order or orders as are authorized by this act.

Sec. 34. From and after July 1, 2008, K.S.A. 2007 Supp. 80-1117 is hereby amended to read as follows: 80-1117. (a) If any township has no residents, as certified by the county clerk of the county in which such township is located, the board of county commissioners, by resolution, ~~may~~ shall disorganize the township or consolidate the township with the next geographically closest township, within such county, having a functioning township board. Prior to the adoption of such resolution, the board of county commissioners shall conduct a public hearing on the advisability of adopting such resolution. Until such time as the disorganization or consolidation is completed, the board of county commissioners may exercise all of the statutory powers of the township board deemed necessary and advisable by such board of county commissioners.

(b) All books, papers, records, moneys and other assets belonging to any township proposed to be disorganized or consolidated under subsection (a) shall be delivered by the persons in possession thereof to the board of county commissioners. The board of county commissioners may dispose of any assets of such township in the manner provided by this section. If at the time of its disorganization or consolidation, the townships has any outstanding indebtedness, the board of county commissioners shall place any moneys together with the proceeds of any assets of such township into a special fund that shall be used for the purpose of paying such indebtedness. Moneys and assets in excess of that required for the payment of outstanding indebtedness either shall be transferred to the township with which the disorganized township is consolidated or shall be disposed of in such other manner as determined by the board of county commissioners to be in the best interests of the former residents or property owners of such township, if the township is disorganized, such moneys shall be credited to the county general fund.

Sec. 35. K.S.A. 17-1367 is hereby repealed.

Sec. 36. From and after July 1, 2008, K.S.A. 12-3913, 12-3914, 12-3916, 12-3918, 13-518, 13-527, 13-1347, 14-201, 14-695, 15-201, 15-204, 17-4757, 19-3614a, 75-1122, 80-1101, 80-1101a, 80-1102a, 80-1103, 80-1104, 80-1106, 80-1107, 80-1108, 80-1109, 80-1110, 80-1111, 80-1301, 80-1302, 80-1303, 80-1304 and 80-1305 and K.S.A. 2007 Supp. 12-1222, 12-3915, 12-5711, 79-2926, 79-2929a, 79-2930, 80-120 and 80-1117 are hereby repealed.

Sec. 37. This act shall take effect from and after its publication in the Kansas register. In the title, by striking all in lines 10 through 12 and inserting the following:

“AN ACT concerning certain municipalities; amending K.S.A. 12-3913, 12-3914, 12-3916, 12-3918, 13-518, 13-527, 13-1347, 14-201, 14-695, 15-201, 15-204, 17-1367, 17-4757, 19-3614a, 75-1122, 80-1101a, 80-1102a, 80-1103, 80-1104, 80-1109, 80-1110 and 80-1111 and K.S.A. 2007 Supp. 12-1222, 12-3915, 12-5711, 79-2926, 79-2929a, 79-2930, 80-120 and 80-1117 and repealing the existing sections; also repealing K.S.A. 80-1101, 80-1106, 80-1107, 80-1108, 80-1301, 80-1302, 80-1303, 80-1304 and 80-1305.”;

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

TIM HUELSKAMP
ROGER P. REITZ
ANTHONY HENSLEY
Conferees on part of Senate

MICHAEL B. BURGESS
TED POWERS
TOM SAWYER
Conferees on part of House

Senator Huelskamp moved the Senate adopt the Conference Committee Report on **HB 2217**.

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

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger, Taddiken.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2412**, submits the following report:

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

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

KARIN BROWNLEE
NICK JORDAN
JIM BARONE
Conferees on part of Senate

KENNY A. WILK
CARL DEAN HOLMES
Conferees on part of House

Senator Brownlee moved the Senate adopt the Conference Committee Report on **S Sub for HB 2412**.

A roll call vote was requested.

On roll call, the vote was: Yeas 28, Nays 9, Present and Passing 0, Absent or Not Voting 3.

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Huelskamp, Jordan, Journey, Lee, McGinn, Morris, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Betts, Francisco, Haley, Hensley, Kelly, Lynn, Schmidt V, Schodorf, Wysong.

Absent or Not Voting: Palmer, Steineger, Taddiken.

The conference committee report was adopted.

The President appointed Senators Brownlee, Jordan and Barone as a second Conference Committee on **HB 2412**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2617**, submits the following report:

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

On page 2, in line 5, before the semicolon by inserting "other than serious injury"; in line 7, by striking "the im-"; in line 8, by striking "mediate" and inserting "serious injury or";

also in line 8, by striking “or if”; by striking all in line 9; in line 25, by striking “or” where it appears the second time; in line 28, after the second comma by inserting “authorized by medical protocol;”; also in line 28, after “or” by inserting “(4)”;

On page 4, in line 4, after “of” by inserting “paragraph (1) of”; also in line 4, by striking “(1)”;

in line 5, after “of” by inserting “paragraph (2) of”; also in line 5, by striking “(2)”;

On page 7, preceding line 13, by inserting the following:

“(w) As used in this section, “serious injury” means a physical injury to a person, as determined by law enforcement, which has the effect of, prior to the request for testing:

- (1) Disabling a person from the physical capacity to remove themselves from the scene;
- (2) renders a person unconscious;
- (3) the immediate loss of or absence of the normal use of at least one limb;
- (4) an injury determined by a physician to require surgery; or
- (5) otherwise indicates the person may die or be permanently disabled by the injury.”;

Also on page 7, in line 28, after “test” by inserting “requested by a law enforcement agency and”; in line 31, by striking “charge”; in line 32, by striking “the defendant for the costs paid herein” and inserting “be reimbursed such costs upon the costs being paid by the defendant”; in line 33, by striking “or 28-172c”;

On page 8, by striking all in lines 14 through 43;

By striking all on pages 9 through 25;

On page 26, by striking all in lines 1 through 28; after line 28, by inserting the following:
 “Sec. 4. K.S.A. 2007 Supp. 8-1567 is hereby amended to read as follows: 8-1567. (a)
 No person shall operate or attempt to operate any vehicle within this state while:

(1) The alcohol concentration in the person’s blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person’s blood or breath, as measured within two hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) No person shall operate or attempt to operate any vehicle within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) Upon a first conviction of a violation of this section, a person shall be guilty of a class B, nonperson misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months’ imprisonment, or in the court’s discretion 100 hours of public service, and fined not less than \$500 nor more than \$1,000. The person convicted must serve at least 48 consecutive hours’ imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(e) On a second conviction of a violation of this section, a person shall be guilty of a class A, nonperson misdemeanor and sentenced to not less than 90 days nor more than one year’s imprisonment and fined not less than \$1,000 nor more than \$1,500. The person convicted must serve at least five consecutive days’ imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a

house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.

(f) (1) On the third conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this paragraph may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(2) The court may order that the term of imprisonment imposed pursuant to paragraph (1) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 21-4704, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

The court shall also require as a condition of parole that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008, and amendments thereto.

(g) (1) On the fourth or subsequent conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this paragraph may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.

(2) The court may order that the term of imprisonment imposed pursuant to paragraph (1) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 21-4704, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available;

(B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

At the time of the filing of the judgment form or journal entry as required by K.S.A. 21-4620 or 22-3426, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the secretary of corrections within three business days of receipt of the judgment form or journal entry from the court and notify the secretary of corrections when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the secretary. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections for a mandatory one-year period of postrelease supervision, which such period of postrelease supervision shall not be reduced. During such postrelease supervision, the person shall be required to participate in an inpatient or outpatient program for alcohol and drug abuse, including, but not limited to, an approved aftercare plan or mental health counseling, as determined by the secretary and satisfy conditions imposed by the Kansas parole board as provided by K.S.A. 22-3717, and amendments thereto. Any violation of the conditions of such postrelease supervision may subject such person to revocation of postrelease supervision pursuant to K.S.A. 75-5217 et seq., and amendments thereto and as otherwise provided by law.

(h) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(i) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(j) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(k) (1) Except as provided in paragraph (5), in addition to any other penalty which may be imposed upon a first conviction of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment and storage fees or other immobilization costs.

(2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:

(A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and

(B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.

(1) (1) Except as provided in paragraph (3), in addition to any other penalty which may be imposed upon a second or subsequent conviction of a violation of this section, the court shall order that each motor vehicle owned or leased by the convicted person shall either be equipped with an ignition interlock device or be impounded or immobilized for a period of two years. The convicted person shall pay all costs associated with the installation, maintenance and removal of the ignition interlock device and all towing, impoundment and storage fees or other immobilization costs.

(2) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(3) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than two years from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.

(m) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(n) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) any convictions occurring during a person's lifetime shall be taken into account when determining the sentence to be imposed for a first, second, third, fourth or subsequent offender;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(o) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(p) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing

penalties for violation thereof. Except as specifically provided by this subsection, the minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this act for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation. *On and after July 1, 2007, and retroactive for ordinance violations committed on or after July 1, 2006, an ordinance may grant to a municipal court jurisdiction over a violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.*

Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. Except as provided in paragraph (5), any such ordinance or resolution may require or authorize the court to order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment and storage fees or other immobilization costs.

(2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:

(A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and

(B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.

(q) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(r) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.

(s) Upon a fourth or subsequent conviction, the judge of any court in which any person is convicted of violating this section, may revoke the person's license plate or temporary registration certificate of the motor vehicle driven during the violation of this section for a period of one year. Upon revoking any license plate or temporary registration certificate pursuant to this subsection, the court shall require that such license plate or temporary registration certificate be surrendered to the court.

(t) For the purpose of this section: (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(2) "Imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(3) "Drug" includes toxic vapors as such term is defined in K.S.A. 65-4165, and amendments thereto.

(u) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.

(v) Upon every conviction of a violation of this section, the court shall order such person to submit to a pre-sentence alcohol and drug abuse evaluation pursuant to K.S.A. 8-1008, and amendments thereto. Such pre-sentence evaluation shall be made available, and shall be considered by the sentencing court.

Sec. 5. K.S.A. 22-3437 is hereby amended to read as follows: 22-3437. (1) In any hearing or trial, a report concerning forensic examinations and certificate of forensic examination executed pursuant to this section shall be admissible in evidence if the report and certificate are prepared and attested by a criminalist or other employee of the Kansas bureau of investigation, Kansas highway patrol or any laboratory of the federal bureau of investigation, federal postal inspection service, federal bureau of alcohol, tobacco and firearms or federal drug enforcement administration. If the examination involves a breath test for alcohol content, the report must also be admissible pursuant to ~~subsection (f)~~ of K.S.A. 8-1001, and amendments thereto, and be conducted by a law enforcement officer or other person who is certified by the department of health and environment as a breath test operator as provided by K.S.A. 65-1,107 et seq., and amendments thereto.

(2) Upon the request of any law enforcement agency, such person as provided in subsection (1) performing the analysis shall prepare a certificate. Such person shall sign the certificate under oath and shall include in the certificate an attestation as to the result of the analysis. The presentation of this certificate to a court by any party to a proceeding shall be evidence that all of the requirements and provisions of this section have been complied with. This certificate shall be supported by a written declaration pursuant to K.S.A. 53-601, and amendments thereto, or shall be sworn to before a notary public or other person empowered by law to take oaths and shall contain a statement establishing the following: The type of analysis performed; the result achieved; any conclusions reached based upon that result; that the subscriber is the person who performed the analysis and made the conclusions; the subscriber's training or experience to perform the analysis; the nature and condition of the equipment used; and the certification and foundation requirements for admissibility of breath test results, when appropriate. When properly executed, the certificate shall, subject to the provisions of subsection (3) and notwithstanding any other provision of law, be admissible evidence of the results of the forensic examination of the samples or evidence submitted for analysis and the court shall take judicial notice of the signature of the person performing the analysis and of the fact that such person is that person who performed the analysis.

(3) Whenever a party intends to proffer in a criminal or civil proceeding, a certificate executed pursuant to this section, notice of an intent to proffer that certificate and the reports relating to the analysis in question, including a copy of the certificate, shall be conveyed to the opposing party or parties at least 20 days before the beginning of a hearing where the proffer will be used. An opposing party who intends to object to the admission into evidence of a certificate shall give notice of objection and the grounds for the objection within 10 days upon receiving the adversary's notice of intent to proffer the certificate. Whenever a notice of objection is filed, admissibility of the certificate shall be determined not later than two days before the beginning of the trial. A proffered certificate shall be admitted in evidence unless it appears from the notice of objection and grounds for that objection that the conclusions of the certificate, including the composition, quality or quantity of the substance submitted to the laboratory for analysis or the alcohol content of a blood or breath sample will be contested at trial. A failure to comply with the time limitations regarding the notice of objection required by this section shall constitute a waiver of any

objections to the admission of the certificate. The time limitations set forth in this section may be extended upon a showing of good cause.

Sec. 6. K.S.A. 22-3437 and K.S.A. 2007 Supp. 8-1001, 8-1567 and 8-1567b are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 14 through 18 and inserting “amending K.S.A. 22-3437 and K.S.A. 2007 Supp. 8-1001 and 8-1567 and repealing the existing sections; also repealing K.S.A. 2007 Supp. 8-1567b.”;

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODMAN
Conferees on part of Senate

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2617**.

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

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Palmer, Steineger, Taddiken.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2780**, submits the following report:

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

On page 13, in line 22, by striking all after the period; by striking all in lines 23 through 43;

On page 14, by striking all in lines 1 through 6; in line 7, by striking “supervision.”; in line 14, by striking all after the period; by striking all in lines 15 through 34;

On page 15, in line 3, by striking “Except as provided in subsection (b), the” and inserting “The”;

On page 16, by striking all in line 43;

By striking all on pages 17 through 19;

On page 20, by striking all in lines 1 through 28;

And by renumbering the remaining sections accordingly;

Also on page 20, in line 30, by striking “, 75-5210 and 75-5220”;

In the title, in line 16, by striking “, 75-5210”; in line 17, by striking “and 75-5220”;

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

JOHN VRATIL
TERRY BRUCE
GRETA GOODMAN
Conferees on part of Senate

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2780**.
On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.
Absent or Not Voting: Palmer, Steineger, Taddiken.
The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

Announcing the House adopts the Conference Committee Report to agree to disagree on **Senate Substitute for HB 2412** and has appointed Representatives Wilk, C. Holmes and Holland as second conferees on the part of the House.

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

EVENING SESSION

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

CHANGE OF CONFERENCE

The President announced the appointment of Senator Hensley as a member of the Conference Committee on **HB 2707** to replace Senator Goodwin.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and dispense with distribution of copies of the conference committee report on **HB 2707, S Sub for HB 2860**.

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: **HB 2707, HB 2860**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2707**, submits the following report:

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

On page 4, following line 13, by inserting the following:

“Sec. 3. K.S.A. 21-4608 is hereby amended to read as follows: 21-4608. (a) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, including sentences for crimes for which suspended sentences, probation or assignment to a community correctional services program have been revoked, such sentences shall run concurrently or consecutively as the court directs. Whenever the record is silent as to the manner in which two or more sentences imposed at the same time shall be served, they shall be served concurrently, except as provided in subsections (c), (d) and (e).

(b) Any person who is convicted and sentenced for a crime committed while on probation, assignment to a community correctional services program, parole or conditional release for a misdemeanor shall serve the sentence concurrently with or consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release, as the court directs.

(c) Any person who is convicted and sentenced for a crime committed while on probation, assigned to a community correctional services program, on parole, on conditional

release or on postrelease supervision for a felony shall serve the sentence consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release.

(d) Any person who is convicted and sentenced for a crime committed while on release for a felony pursuant to article 28 of chapter 22 of the Kansas Statutes Annotated shall serve the sentence consecutively to the term or terms under which the person was released.

(e) (1) Any person who is convicted and sentenced for a crime committed while such person is incarcerated and serving a sentence for a felony in any place of incarceration shall serve the sentence consecutively to the term or terms under which the person was incarcerated.

(2) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while the person was imprisoned for an offense committed prior to July 1, 1993, and the person is not eligible for the retroactive application of the sentencing guidelines act, the new sentence shall not be aggregated with the old sentence but shall begin when the person is paroled or reaches the conditional release date on the old sentence, whichever is earlier. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of ~~postrelease~~ *post incarceration* supervision shall be based on the ~~new sentence~~ *longest term of post incarceration supervision imposed for all crimes upon which sentence was imposed or until discharged from supervision by the Kansas parole board. The term of post incarceration supervision imposed by this paragraph shall apply retroactively to crimes committed prior to the effective date of this act.*

(3) *As used in this subsection, "post incarceration supervision" includes parole and post-release supervision.*

(f) The provisions of this subsection relating to parole eligibility shall be applicable to persons convicted of crimes committed prior to January 1, 1979, but shall be applicable to persons convicted of crimes committed on or after that date only to the extent that the terms of this subsection are not in conflict with the provisions of K.S.A. 22-3717 and amendments thereto. In calculating the time to be served on concurrent and consecutive sentences, the following rules shall apply:

(1) When indeterminate terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum term and the shorter maximum terms merge in and are satisfied by conditional release or discharge on the longest maximum term if the terms are imposed on the same date.

(2) When concurrent terms are imposed on different dates, computation will be made to determine which term or terms require the longest period of imprisonment to reach parole eligibility, conditional release and maximum dates, and that sentence will be considered the controlling sentence. The parole eligibility date may be computed and projected on one sentence and the conditional release date and maximum may be computed and projected from another to determine the controlling sentence.

(3) When indeterminate terms imposed on the same date are to be served consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms.

(4) When indeterminate sentences are imposed to be served consecutively to sentences previously imposed in any other court or the sentencing court, the aggregated minimums and maximums shall be computed from the effective date of the subsequent sentences which have been imposed as consecutive. For the purpose of determining the sentence begins date and the parole eligibility and conditional release dates, the inmate shall be given credit on the aggregate sentence for time spent imprisoned on the previous sentences, but not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time credit that could have been earned on the minimum sentence. For the purpose of computing the maximum date, the inmate shall be given credit for all time spent impris-

oned on the previous sentence. This method for computation of the maximum sentence shall be utilized for all sentences computed pursuant to this subsection after July 1, 1983.

Nothing in this subsection (f)(4) shall affect the authority of the Kansas parole board to determine the parole eligibility of inmates pursuant to subsection (d) of K.S.A. 22-3717 and amendments thereto.

(5) When consecutive sentences are imposed which are to be served consecutive to sentences for which a prisoner has been on probation, assigned to a community correctional services program, on parole or on conditional release, the amount of time served on probation, on assignment to a community correctional services program, on parole or on conditional release shall not be credited as service on the aggregate sentence in determining the parole eligibility, conditional release and maximum dates, except that credit shall be given for any amount of time spent in a residential facility while on probation or assignment to a community correctional residential services program.

(g) When a definite and an indefinite term run consecutively, the period of the definite term is added to both the minimum and maximum of the indeterminate term and both sentences are satisfied by serving the indeterminate term. The provisions of this subsection shall not apply to crimes committed on or after July 1, 1993.

(h) When a defendant is sentenced in a state court and is also under sentence from a federal court or other state court or is subject to sentence in a federal court or other state court for an offense committed prior to the defendant's sentence in a Kansas state court, the court may direct that custody of the defendant may be relinquished to federal or other state authorities and that such state sentences as are imposed may run concurrently with any federal or other state sentence imposed.”;

And by renumbering the remaining sections accordingly;

On page 9, in line 12, by striking “The” and inserting “Except as provided in subsection (o), the”;

On page 10, following line 1, by inserting the following:

“(o) The sentence for a felony violation of K.S.A. 21-3701 or 21-3715, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 21-4729, and amendments thereto, shall apply to a defendant sentenced under this subsection.

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.”;

And by relettering the remaining subsection accordingly;

Also on page 10, in line 3, by striking “two” and inserting “any combination of three”; in line 4, preceding “and” by inserting “, 21-3715 or 21-3716”; in line 6, preceding “two” by inserting “any combination of”; in line 7, by striking all following “of”; in line 8, by striking “conviction of”; also in line 8, following “K.S.A.” by inserting “21-3701,”; in line 11, by striking all following “placed”; in line 12, by striking all preceding “in”; in line 13, by striking

“or, if space is not available at such facility”; in line 16, by striking “addiction” and inserting “abuse”; following line 33, by inserting the following:

“Sec. 5. K.S.A. 21-4705 is hereby amended to read as follows: 21-4705. (a) For the purpose of sentencing, the following sentencing guidelines grid for drug crimes shall be applied in felony cases under the uniform controlled substances act for crimes committed on or after July 1, 1993:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
III	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	29 28 23	33 29 25	19 18 17	11 15 14
IV	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Order Box
Presumptive Imprisonment

(b) The provisions of subsection (a) will apply for the purpose of sentencing violations of the uniform controlled substances act except as otherwise provided by law. Sentences expressed in the sentencing guidelines grid for drug crimes in subsection (a) represent months of imprisonment.

(c) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The sentencing court shall not distinguish between the controlled substances cocaine base (9041L000) and cocaine hydrochloride (9041L005) when sentencing within the sentencing range of the grid block.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(d) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I shall not be considered a departure and shall not be subject to appeal.

(e) The sentence for a second or subsequent conviction of K.S.A. 65-4159 and amendments thereto, manufacture of any controlled substance or controlled substance analog shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A. 21-4716 and amendments thereto justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

(f) (1) The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section; *Such term of imprisonment shall be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.*

(2) If the defendant has previously completed a certified drug abuse treatment program, as provided in K.S.A. 2007 Supp. 75-52,144, and amendments thereto, or has been discharged or refused to participate in a certified drug abuse treatment program, as provided in K.S.A. 2007 Supp. 75-52,144, and amendments thereto, *has completed an intensive sub-*

stance abuse treatment program under paragraph (1) or has been discharged or refused to participate in an intensive substance abuse treatment program under paragraph (1), such defendant's term of imprisonment shall not be subject to modification under paragraph (1).

~~Such sentence~~ *The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.*

Sec. 6. K.S.A. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

- (1) A summary of the factual circumstances of the crime or crimes of conviction.
- (2) If the defendant desires to do so, a summary of the defendant's version of the crime.
- (3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.
- (4) An appropriate classification of each crime of conviction on the crime severity scale.
- (5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.
- (6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.
- (7) If the proposed grid block classification is a grid block which presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.
- (8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.
- (9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.
- (10) *For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.*

(c) The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to the parties, the sentencing judge, the department of corrections, and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220 and amendments thereto to the warden of the state correctional institution to which the defendant is conveyed.

- (d) The criminal history worksheet will not substitute as a presentence report.
- (e) The presentence report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.
- (f) The court can take judicial notice in a subsequent felony proceeding of an earlier presentence report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

Sec. 7. K.S.A. 21-4719 is hereby amended to read as follows: 21-4719. (a) When a departure sentence is appropriate, the sentencing judge may depart from the sentencing guidelines as provided in this section. *The sentencing judge shall not impose a downward dispositional departure sentence for any crime of extreme sexual violence, as defined in K.S.A. 21-4716, and amendments thereto. The sentencing judge shall not impose a downward durational departure sentence for any crime of extreme sexual violence, as defined in K.S.A. 21-4716, and amendments thereto, to less than 50% of the center of the range of the sentence for such crime.*

(b) When a sentencing judge departs in setting the duration of a presumptive term of imprisonment: (1) The judge shall consider and apply the enacted purposes and principles of sentencing guidelines to impose a sentence which is proportionate to the severity of the crime of conviction and the offender's criminal history; and

(2) the presumptive term of imprisonment set in such departure shall not total more than double the maximum duration of the presumptive imprisonment term.

(c) When a sentencing judge imposes a prison term as a dispositional departure: (1) The judge shall consider and apply the enacted purposes and principles of sentencing guidelines to impose a sentence which is proportionate to the severity of the crime of conviction; and

(2) the term of imprisonment shall not exceed the maximum duration of the presumptive imprisonment term listed within the sentencing grid. Any sentence inconsistent with the provisions of this section shall constitute an additional departure and shall require substantial and compelling reasons independent of the reasons given for the dispositional departure.

(d) If the sentencing judge imposes a nonprison sentence as a dispositional departure from the guidelines, the recommended duration shall be as provided in subsection (c) of K.S.A. 21-4611 and amendments thereto.

Sec. 8. K.S.A. 22-3716 is hereby amended to read as follows: 22-3716. (a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (d) for defendants who committed a crime prior to July 1, 1993, and at any time during which a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (d), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written *or verbal* statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. ~~The~~ A written statement delivered with the defendant by the arresting officer to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to defendants arrested under these provisions.

(b) Upon arrest and detention pursuant to subsection (a), the court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction. Thereupon, or upon an arrest by warrant as provided in this section, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent

the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other evidence presented at the hearing. Except as otherwise provided, if the violation is established, the court may continue or revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and may require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed. Except as otherwise provided, no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed, except these provisions shall not apply to offenders who violate a condition of release or assignment or a nonprison sanction by committing a new misdemeanor or felony offense. The provisions of this subsection shall not apply to adult felony offenders as described in subsection (a)(3) of K.S.A. 75-5291, and amendments thereto. The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program. When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608 and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(c) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(d) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(e) Notwithstanding the provisions of any other law to the contrary, an offender whose nonprison sanction is revoked and a term of imprisonment imposed pursuant to either the sentencing guidelines grid for nondrug or drug crimes shall not serve a period of postrelease supervision upon the completion of the prison portion of that sentence. The provisions of this subsection shall not apply to offenders sentenced to a nonprison sanction pursuant to a dispositional departure, whose offense falls within a border box of either the sentencing guidelines grid for nondrug or drug crimes, offenders sentenced for a "sexually violent crime" as defined by K.S.A. 22-3717, and amendments thereto, or whose nonprison sanction was revoked as a result of a conviction for a new misdemeanor or felony offense. The provisions of this subsection shall not apply to offenders who are serving or are to begin serving a sentence for any other felony offense that is not excluded from postrelease supervision by this subsection on the effective date of this subsection. The provisions of this

subsection shall be applied retroactively. The department of corrections shall conduct a review of all persons who are in the custody of the department as a result of only a revocation of a nonprison sanction. On or before September 1, 2000, the department shall have discharged from postrelease supervision those offenders as required by this subsection.

(f) Offenders who have been sentenced pursuant to K.S.A. 21-4729, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

Sec. 9. K.S.A. 2007 Supp. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the superintendent of the highway patrol, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) The governor shall designate staff to the Kansas criminal justice coordinating council. The staff shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses.

(2) Define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements.

(3) Perform such criminal justice studies or tasks as requested by the governor, the attorney general, the legislature or the chief justice, as deemed appropriate or feasible by the council.

(4) Oversee development and management of a criminal justice database. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amendments thereto and the juvenile justice authority shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database.

(5) Develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants.

(6) Form such task groups as necessary and appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, when analyzing criminal justice issues and performing criminal justice studies. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council.

(7) Review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate; and

(8) (A) Establish the sex offender policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation, reintegration and supervision of sex offenders.

(B) The sex offender policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation and the chief justice of the supreme court or the chief justice's designee and two persons appointed by the criminal justice coordinating council. Of the persons appointed by the criminal justice coordinating council, one shall be a mental health service provider and the other shall be engaged in the provision of services involving child welfare or crime victims.

(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.

(D) The sex offender policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.

(E) Each appointed member of the sex offender policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(F) The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

(i) The board shall submit a report regarding public notification pertaining to sex offenders, restrictions on the residence of released sex offenders, utilization of electronic monitoring, and the management of juvenile sex offenders by the first day of the 2007 legislative session.

(ii) The board shall submit a report regarding treatment and supervision standards for sex offenders, suitability of lifetime release supervision and safety education and prevention strategies for the public by the first day of the 2008 legislative session.

(iii) The board shall submit reports regarding any other studies, issues or policy recommendations as completed.

(G) The sex offender policy board established pursuant to subsection (e)(8) of this section shall expire on June 30, ~~2008~~ 2011.

(9) (A) *Establish the substance abuse policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation and supervision of substance abuse offenders. The board shall specifically analyze and study driving under the influence and the use of drug courts by other states.*

(B) The substance abuse policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation, the chief justice of the supreme court or the chief justice's designee, a member of the Kansas sentencing commission, a prosecutor appointed by the Kansas county and district attorneys association, and two persons appointed by the Kansas association of addiction professionals. Of the persons appointed by the Kansas association of addiction professionals, one shall be an addiction counselor and the other shall be a professional program administrator.

(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.

(D) The substance abuse policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.

(E) *Each appointed member of the substance abuse policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.*

(F) *The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.*”;

And by renumbering the remaining sections accordingly;

On page 11, in line 28, by striking “substance”; by striking all in line 29; in line 30, by striking “a”; also in line 30, by striking all following “secretary”; in line 31, by striking all preceding “intensive” and inserting “to participate in an”; in line 32, preceding the comma, by inserting “program”; in line 35, preceding “substance” by inserting “facility to participate in an intensive”; also in line 35, by striking “facility” and inserting “program”;

On page 13, following line 18, by inserting the following:

“Sec. 11. K.S.A. 2007 Supp. 75-5217 is hereby amended to read as follows: 75-5217.

(a) At any time during release on parole, conditional release or postrelease supervision, the secretary of corrections may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be served personally upon the released inmate. The warrant shall authorize any law enforcement officer to arrest and deliver the released inmate to a place as provided by subsection (g). Any parole officer may arrest such released inmate without a warrant, or may deputize any other officer with power of arrest to do so by giving such officer a written or verbal arrest and detain order setting forth that the released inmate, in the judgment of the parole officer, has violated the conditions of the inmate’s release. ~~The~~ A written arrest and detain order delivered with the released inmate by the arresting officer to the official in charge of the institution or place to which the released inmate is brought for detention shall be sufficient warrant for detaining the inmate. After making an arrest the parole officer shall present to the detaining authorities a similar arrest and detain order and statement of the circumstances of violation. Pending a hearing, as provided in this section, upon any charge of violation the released inmate shall remain incarcerated in the institution or place to which the inmate is taken for detention.

(b) Upon such arrest and detention, the parole officer shall notify the secretary of corrections, or the secretary’s designee, within five days and shall submit in writing a report showing in what manner the released inmate had violated the conditions of release. After such notification is given to the secretary of corrections, or upon an arrest by warrant as herein provided, and the finding of probable cause pursuant to procedures established by the secretary of a violation of the released inmate’s conditions of release, the secretary or the secretary’s designee may cause the released inmate to be brought before the Kansas parole board, its designee or designees, for a hearing on the violation charged, under such rules and regulations as the board may adopt, or may dismiss the charges that the released inmate has violated the conditions of release and order the released inmate to remain on parole, conditional release or post release supervision. It is within the discretion of the Kansas parole board whether such hearing requires the released inmate to appear personally before the board when such inmate’s violation results from a conviction for a new felony or misdemeanor. An offender under determinate sentencing whose violation does not result from a conviction of a new felony or misdemeanor may waive the right to a final revocation hearing before the Kansas parole board under such conditions and terms as may be prescribed by rules and regulations promulgated by the Kansas parole board. Relevant written statements made under oath shall be admitted and considered by the Kansas parole board, its designee or designees, along with other evidence presented at the hearing. If the violation is established to the satisfaction of the Kansas parole board, the board may continue or revoke the parole or conditional release, or enter such other order as the board may see fit. The revocation of release of inmates who are on a specified period of postrelease supervision shall be for a six-month period of confinement from the date of the revocation hearing before the board or the effective date of waiver of such hearing by the offender pursuant to rules and regulations promulgated by the Kansas parole board, if the violation does not

result from a conviction for a new felony or misdemeanor. Such period of confinement may be reduced by not more than three months based on the inmate's conduct, work and program participation during the incarceration period. The reduction in the incarceration period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(c) If the violation results from a conviction for a new felony, upon revocation, the inmate shall serve the entire remaining balance of the period of postrelease supervision even if the new conviction did not result in the imposition of a new term of imprisonment.

(d) If the violation results from a conviction for a new misdemeanor, upon revocation, the inmate shall serve a period of confinement, to be determined by the Kansas parole board, which shall not exceed the remaining balance of the period of postrelease supervision.

(e) In the event the released inmate reaches conditional release date as provided by K.S.A. 22-3718 and amendments thereto after a finding of probable cause, pursuant to procedures established by the secretary of corrections of a violation of the released inmate's conditions of release, but prior to a hearing before the Kansas parole board, the secretary of corrections shall be authorized to detain the inmate until the hearing by the Kansas parole board. The secretary shall then enforce the order issued by the Kansas parole board.

(f) If the secretary of corrections issues a warrant for the arrest of a released inmate for violation of any of the conditions of release and the released inmate is subsequently arrested in the state of Kansas, either pursuant to the warrant issued by the secretary of corrections or for any other reason, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest.

If a released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state, and the released inmate has been authorized as a condition of such inmate's release to reside in or travel to the state in which the released inmate was arrested, and the released inmate has not absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant to the date of the released inmate's arrest. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state for reasons other than the secretary's warrant and the released inmate does not have authorization to be in the other state or if authorized to be in the other state has been charged by the secretary with having absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant by the secretary to the date the released inmate is first available to be returned to the state of Kansas. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of a condition of release is subsequently arrested in another state pursuant only to the secretary's warrant, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, regardless of whether the released inmate's presence in the other state was authorized or the released inmate had absconded from supervision.

The secretary may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release and may direct that all reasonable means to serve the warrant and detain such released inmate be employed including but not limited to notifying the federal bureau of investigation of such violation and issuance of warrant and requesting from the federal bureau of investigation any pertinent information it may possess concerning the whereabouts of the released inmate.

(g) Law enforcement officers shall execute warrants issued by the secretary of corrections, and shall deliver the inmate named in the warrant to the jail used by the county where the inmate is arrested unless some other place is designated by the secretary, in the same manner as for the execution of any arrest warrant.

(h) For the purposes of this section, an inmate or released inmate is an individual under the supervision of the secretary of corrections, including, but not limited to, an individual on parole, conditional release, postrelease supervision, probation granted by another state or an individual supervised under any interstate compact in accordance with the provisions

of the uniform act for out-of-state parolee supervision, K.S.A. 22-4101 et seq. and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 14, in line 12, by striking all following “a”; in line 13, by striking all preceding “shall” and inserting “facility designated by the secretary of corrections to participate in an intensive substance abuse treatment program”; in line 14, by striking “state”; in line 15, by striking “substance abuse treatment”; in line 17, by striking all following “a” and inserting “facility to participate in an intensive substance abuse treatment program to any”; by striking all in lines 20 through 22 and inserting the following:

“Sec. 13. K.S.A. 21-3702, 21-3705, 21-4608, 21-4704, 21-4704b, 21-4705, 21-4714, 21-4719 and 22-3716 and K.S.A. 2007 Supp. 74-9501, 75-5210, 75-5217 and 75-5220 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 14 through 20 and inserting the following:

“AN ACT relating to crimes, punishment and criminal procedure; concerning sentencing; relating to substance abuse and the treatment thereof; amending K.S.A. 21-3702, 21-3705, 21-4608, 21-4704, 21-4705, 21-4714, 21-4719 and 22-3716 and K.S.A. 2007 Supp. 74-9501, 75-5210, 75-5217 and 75-5220 and repealing the existing sections; also repealing K.S.A. 21-4704b.”;

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

JOHN VRATIL
DEREK SCHMIDT
ANTHONY HENSLEY
Conferees on part of Senate

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2707**.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

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

Absent or Not Voting: Betts, Goodwin, McGinn, Palmer, Steineger, Taddiken.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2860**, submits the following report:

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

On page 1, in line 20, following “submitted” by inserting “on or after January 1, 2008.”; in line 21, preceding “public” by inserting “any”; also in line 21, by striking “number 25” and inserting “located in Douglas County”; in line 24, preceding “public” by inserting “any”; also in line 24, by striking “number 25” and inserting “located in Douglas County”; in line 38, by striking “in condemnation”; in line 39, by striking “of” and inserting “as it relates to”; also in line 39, preceding the period by inserting “and other issues concerning water rights”;

In the title, in line 14, by striking “district number”; in line 15, by striking “25” and inserting “districts located in Douglas County”;

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

MARK TADDIKEN
ROGER C. PINE
MARCI FRANCISCO
Conferees on part of Senate

JOHN FABER
FORREST KNOX
JOSH SVATY
Conferees on part of House

Senator Pine moved the Senate adopt the Conference Committee Report on **S Sub HB 2860**.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

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

Absent or Not Voting: Betts, Goodwin, McGinn, Palmer, Steineger, Taddiken.
The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Senate Substitute for HB 2119**.

The House adopts the conference committee report on **HB 2217**.

The House adopts the conference committee report on **HB 2617**.

The House adopts the conference committee report on **HB 2780**.

On motion of Senator D. Schmidt the Senate adjourned until 11:00 a.m., Monday, May 5, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

