

# Journal of the House

FIFTY-FOURTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, April 1, 2009, 9:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 124 members present.  
Rep. Seiwert was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
Today we celebrate April Fool's Day,  
a day in which we like to pull pranks—  
and there is nothing wrong  
in relaxing with a joke or two.  
We are reminded, however, that in Your Word,  
You speak quite frankly about the way of the fool.  
"Fools are headstrong and do what they like;  
wise people take advice . . .  
Fools have short fuses and explode all too quickly;  
the prudent quietly shrug off insults . . .  
Start with God—the first step in learning  
is bowing down to God;  
only fools thumb their noses  
at such wisdom and learning . . .  
Perceptive words spread knowledge;  
fools are hollow—there is nothing to them . . .  
An intelligent person is always  
eager to take in more truth;  
fools feed on fast-food fads and fancies . . .  
A quiet rebuke to a person of good sense  
does more than a whack on the head of a fool."  
(Proverbs 12:15-16; 1:7; 15:14; 17:10  
*The Message*)  
Lord . . . make us wise today in all we do,  
and help us not to play the fool.  
In Your Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Trimmer.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following resolutions were referred to committee as indicated:

Committee of the Whole: **HCR 5020**, **HCR 5021**.

## MESSAGE FROM THE SENATE

The Senate concurs in House amendments to **SB 29**.

The Senate concurs in House amendments to **SB 53**.

The Senate concurs in House amendments to **SB 80**, and requests return of the bill.

The Senate concurs in House amendments to **H. Sub. for SB 91**, and requests return of the bill.

The Senate concurs in House amendments to **SB 237**, and requests return of the bill.

The Senate concurs in House amendments to **SB 275**, and requests return of the bill.

The Senate adopts conference committee report on **S. Sub. for HB 2096**.

The Senate adopts conference committee report on **HB 2131**.

The Senate adopts conference committee report on **HB 2134**.

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2097** and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2155** and has appointed Senators Reitz, Wagle and Kultala as conferees on the part of the Senate.

The Senate adopts the conference committee report to agree to disagree on **HB 2152** and has appointed Senators Umbarger, Marshall and Kultala as second conferees on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. McCray-Miller, **HR 6024**, by Reps. McCray-Miller, Ballard, Finney, Garcia, Goico, Henderson, Ruiz, Sawyer, Talia and Winn, as follows, was introduced and adopted:

##### HOUSE RESOLUTION No. 6024—

A RESOLUTION designating the month of April as Minority Health Awareness Month.

WHEREAS, The overall health and well-being of all Kansas citizens is important and is directly related to the quality of life of the citizens of this great state; and

WHEREAS, The rates of overweight and obese individuals has been increasing in the United States in recent years. Obesity increases an individual's risk of diabetes, heart disease, cancer and many other illnesses. In Kansas, the rate of obesity is 25% for whites, 30% for Hispanics and 40% for African Americans; and

WHEREAS, Despite the growing scientific evidence documenting the importance of fruits and vegetables to a healthy diet, four out of five Kansans, regardless of race and ethnicity, do not eat the daily recommended five servings of fruits and vegetables, underscoring the importance of raising awareness about healthy lifestyle choices; and

WHEREAS, Thousands of Kansas children, adults and elders suffer from poor health as a result of lack of access to appropriate health care because of race, ethnicity, cultural differences, gender, socioeconomic status, geographical location and disabilities; and

WHEREAS, These health disparities are compounded by factors including poverty, health care provider shortages, patient health care preferences and lifestyle choices; and

WHEREAS, Activities such as research, improved public policy and appropriate legislation can help to remove health related barriers and disparities facing racial, ethnic and tribal populations and increase awareness of the importance of managing our health and well-being; and

WHEREAS, Regardless of race, age, gender, disability or socioeconomic status, all Kansans should have the opportunity to actively participate in the management of their personal health and well-being through proper nutrition, moderate exercise and regular health screenings: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we designate the month of April as Minority Health Awareness Month and that we urge all Kansans to join in this observance; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to provide an enrolled copy of this resolution to Representative Melody McCray-Miller.

There being no objection, the following remarks by Reps. McCray-Miller and Garcia are spread upon the journal.

Remarks by Rep. McCray-Miller:

Regardless of race, age, gender, disability or socioeconomic status, all Kansans should have the opportunity to actively participate in the management of their personal health and well-being through proper nutrition, moderate exercise and regular health screenings.

Remarks by Rep. Garcia:

I am proud to honor this month as Minority Health Awareness Month, and want to share some exciting news on the work on this so far in Kansas by the Kansas Latino Legislative Caucus area. Wichita has been proactive on minority health awareness through our annual April Health Fair. I'd like to invite you to Wichita on Saturday, April 11, to our fifth annual Health is Life: Resource and Health Fair, where we have free health screenings for blood pressure, diabetes, tuberculosis, skin, feet, including massages and information on living a healthier lifestyle with materials available in other languages like Spanish and Vietnamese. There will be free healthy food and beverages and entertainment to make living life healthy fun! When all Kansans are healthy, then Kansas is healthy and flourishes economically.

#### **MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY**

On motion of Rep. Quigley, **HR 6023**, A resolution congratulating the Kansas Medical Society on its 150th Anniversary, was adopted.

There being no objection, the following remarks of Rep. Quigley are spread upon the journal:

We are proud to announce that 2009 marks the 150th anniversary of the founding of the Kansas Medical Society. On February 10, 1859—two years before Kansas achieved statehood—a group of physicians gathered at the Eldridge Hotel in Lawrence to develop and sign an organizational charter. One of those original signers was Charles Robinson, a physician whose name is one of the ten names on the walls of the House Chamber. Since that time, the Kansas Medical Society has endured and remains a steadfast advocate for the physicians of this great state.

Today I am joined by House Leadership (Speaker O'Neal, Majority Leader Merrick, Speaker Pro Tem Siegfried, and Minority Leader Davis), by Rep. Landwehr as Chair of the House Health and Human Services and by representatives with immediate family members who are physicians:

- My husband, Dr. Jim Quigley, is a pathologist in Johnson County
- Rep. Goico, whose son, Brian Goico is in medical school at Northwestern University
- Rep. Goyle, whose parents, Dr. Krishan Goyle is a cardiologist and Dr. Vimal Goyle is a gynecologist at the Goyle clinic in Wichita
- Rep. Hineman, whose daughter-in-law, Dr. Libby Hineman is in family practice in Scott City
- Rep. Ruiz, whose wife, Dr. Marthel E. Parson-Ruiz is a psychiatrist in Kansas City
- Rep Tietze whose husband, Dr. Dennis Tietze, is in family medicine in Topeka
- Rep. Wetta, whose daughter-in-law, Dr. Terri Cusick-Wetta is a surgeon in Wichita
- Rep. Neighbor, whose daughter, Dr. Samantha Durland, is an obstetrician-gynecologist in Lawrence
- Rep. Ballard, who son, Dr. Gregory Ballard, is an orthopedic surgeon in the Kansas City area

In celebration, we offer this resolution.

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

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Speaker O'Neal called the House to order.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171**, 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.

STEVE HUEBERT  
SCOTT SCHWAB  
*Conferees on part of House*

VICKI SCHMIDT  
PAT APPLE  
OLETHA FAUST-GOUDEAU  
*Conferees on part of Senate*

On motion of Rep. Huebert to adopt the conference committee report on **SB 171** to agree to disagree, the motion did not prevail, and the bill remains in conference (see further action, afternoon session).

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **HB 2152**, 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.

DWAYNE UMBARGER  
BOB MARSHALL  
KELLY KULTALA  
*Conferees on part of Senate*

GARY K. HAYZLETT  
JENE VICKREY  
*Conferees on part of House*

On motion of Rep. Hayzlett, the conference committee report on **HB 2152** was adopted. Speaker O'Neal thereupon appointed Reps. Hayzlett, Vickrey and Long as second conferees on the part of the House.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Schwab in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that committee report recommending a substitute bill to **H. Sub. for SB 257** be adopted; also, on motion of Rep. Gordon be amended on page 2, by striking all in lines 35 through 43;

By striking all of pages 3 through 10;

On page 11, by striking all in lines 1 through 35;

And by renumbering sections accordingly;

Also on page 11, in line 36, by striking "12-519, 12-520b, 12-521, 12-531, 12-532 and"; in line 37, by striking all before "hereby" and inserting "is";

In the title, in line 10, by striking "relating to annexation;"; also in line 10, by striking all after "K.S.A."; in line 11, by striking all before "12-693"; also in line 11, by striking "and K.S.A. 2008 Supp. 25-432"; in line 12, by striking "sections" and inserting "section";

Also, on motion of Rep. Frownfelter to amend **H. Sub. for SB 257**, Rep. Schwartz requested a ruling on the amendment being germane to the bill. Rep. Frownfelter subsequently withdrew his amendment, and the substitute bill be passed as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 218** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 218," as follows:

“HOUSE Substitute for SENATE BILL No. 218

By Committee on Federal and State Affairs

“AN ACT concerning abortion; regarding restrictions on late term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6709, as amended by section 1 of 2009 HOUSE Substitute for Senate Bill No. 238 and 65-6721 and K.S.A. 2008 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713.”; and the substitute bill be passed.

(**H. Sub. for SB 218** was thereupon introduced and read by title.)

#### **MOTIONS TO CONCUR AND NONCONCUR**

On motion of Rep. Landwehr, the House nonconcurred in Senate amendments to **HB 2221** and asked for a conference.

Speaker O’Neal thereupon appointed Reps. Landwehr, Crum and Flaharty as conferees on the part of the House.

On motion of Rep. Landwehr, the House nonconcurred in Senate amendments to **HB 2162** and asked for a conference.

Speaker O’Neal thereupon appointed Reps. Landwehr, Crum and Flaharty as conferees on the part of the House.

On motion of Rep. Carlson, the House nonconcurred in Senate amendments to **HB 2324** and asked for a conference.

Speaker O’Neal thereupon appointed Reps. Carlson, King and Menghini as conferees on the part of the House.

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

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### **AFTERNOON SESSION**

The House met pursuant to recess with Speaker O’Neal in the chair.

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following concurrent resolution was introduced and read by title:

HOUSE CONCURRENT RESOLUTION No. 5022—

By the House Federal and State Affairs Committee

A CONCURRENT RESOLUTION concerning actions taken to affect global climate change and its effects on mankind and urging the Governor of Kansas and the Kansas Congressional Delegation to protect American jobs and be mindful of the energy and job costs to Kansas families which may result from federal or state climate change legislation.

WHEREAS, Global carbon dioxide is part of the complex natural carbon cycle that sustains all life on earth; and

WHEREAS, Global climate change has occurred in natural cycles for the last 600 millennia; and

WHEREAS, Atmospheric carbon dioxide exists in a dynamic equilibrium with the carbon dioxide dissolved in the oceans, with the total amount of carbon dioxide held in the oceans being fifty times that held in the atmosphere; and

WHEREAS, Emissions of carbon dioxide into the atmosphere are truly global in nature and differential concentrations cannot be measured on any regional basis; and

WHEREAS, No deleterious effect of carbon dioxide can be shown in any one region of the earth as compared to other regions; and

WHEREAS, Kansas accounts for less than 0.25% of global carbon dioxide emissions; and

WHEREAS, Any attempt to regulate carbon dioxide emissions by the state of Kansas would have a negligible effect on the global situation without concurrent coordinated action on the part of all nations; and

WHEREAS, Previously proposed federal legislation to address the issue of global climate change would cause high energy prices, fewer jobs, and the loss of industrial output which is estimated to reduce Kansas' gross state product by between \$1.3 and \$1.8 billion per year by 2020 and \$4.8 and \$5.7 billion by 2030; and may cost Kansas between 11,100 and 16,700 jobs by 2020 and 37,000 jobs by 2030; and

WHEREAS, Any system which would only regulate carbon dioxide locally would result in the exporting of business and industry out of state or offshore; and

WHEREAS, Kansas has already lost 20,700 manufacturing jobs in the last 10 years: Now, therefore,

*Be it resolved by the House of Representatives of the state of Kansas, the Senate concurring therein:* That any action taken to affect global climate change and its effects on mankind be structured such that:

- (1) The action has a clear scientific basis;
- (2) The action confronts the situation from a truly global perspective;
- (3) The action keeps American citizens and industries from higher energy prices;
- (4) The action rewards early adopters of efficient practices and technologies;
- (5) The action promotes Kansas jobs; and
- (6) The action champions the global competitiveness of American industry.

*Be it further resolved:* That an enrolled copy of this resolution be sent to the Governor of Kansas and each member of the Kansas Congressional Delegation.

#### MESSAGE FROM THE SENATE

Announcing passage of **HB 2085**, as amended by **S. Sub. for HB 2085**.

Announcing passage of **HB 2267**, as amended by **S. Sub. for HB 2267**.

The Senate adopts the conference committee report on **SB 45**.

The Senate adopts the conference committee report to disagree on **HB 2121** and has appointed Senators Taddiken, Ostmeyer and Francisco as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2221** and has appointed Senators Barnett, V. Schmidt and Kelly as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2308** and has appointed Senators Brungardt, Reitz and Faust-Goudeau as conferees on the part of the Senate.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2121**, 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.

MARK TADDIKEN  
RALPH OSTMEYER  
MARCI FRANCISCO  
*Conferees on part of Senate*

LARRY R. POWELL  
ROCKY FUND  
*Conferees on part of House*

On motion of Rep. Powell, the conference committee report on **HB 2121** was adopted. Speaker O'Neal thereupon appointed Reps. Powell, Fund and Svaty as second conferees on the part of the House.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 11**, 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 5, in line 21, by striking “areas” and inserting “area”; after line 23, by inserting: “New Sec. 2. (a) As used in this section, “technical college” means a technical college designated by K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477 or K.S.A. 2008 Supp. 72-4477a, and amendments thereto.

(b) The governing body of a technical college may change the designation of such technical college by adoption of a resolution. If the designation of a technical college is changed pursuant to this section, whenever the technical college is referred to or designated by or in any contract or other document, such reference or designation shall be deemed to apply to the designation as provided in the resolution. If the designation of a technical college is changed pursuant to this section, whenever any statute refers to a technical college by the designation in K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477 or K.S.A. 2008 Supp. 72-4477a, as such sections existed prior to July 1, 2009, such reference or designation shall be construed to mean the designation as provided in the resolution.”;

And by renumbering sections accordingly;

In the title, in line 12, after “to” by inserting “technical colleges and”;

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

TERRIE HUNTINGTON

MARC RHOADES

ANN E. MAH

*Conferees on part of House*

JEAN KURTIS SCHODORF

JOHN VRATIL

ANTHONY HENSLEY

*Conferees on part of Senate*

On motion of Rep. Huntington, the conference committee report on **SB 11** was adopted.

On roll call, the vote was: Yeas 119; Nays 4; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kleeb, Knox, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Kinzer, Kuether, Neufeld.

Present but not voting: None.

Absent or not voting: Landwehr, Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 19**, 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 4, in line 38, before the semicolon, by inserting “, while actually engaged in the duties of their employment or any activities incidental to such duties”; in line 40, before the semicolon, by inserting “and while actually engaged in the duties of their employment or any activities incidental to such duties”; in line 42, before the semicolon, by inserting “and

while actually engaged in the duties of their employment or any activities incidental to such duties”;

On page 5, in line 2, before the period, by inserting “and while actually engaged in the duties of their employment or any activities incidental to such duties”;

On page 6, in line 2, before “facility” by inserting “courthouse and court-related”; in line 9, before “facilities” by inserting “courthouse or court-related”; also in line 9, by striking all after “facilities” and inserting the following:

“if:

(1)”;

Also on page 6, in line 11, by striking all after “facilities”; by striking all in lines 12 and 13; in line 14, by striking all before the period; in line 18, before the period, by inserting the following:

“(2) such facilities have adequate measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options;

(3) such county also has a policy or regulation requiring all law enforcement officers to secure and store such officer’s firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff’s office personnel for such county; and

(4) such facilities have a sign conspicuously posted at each entryway into such facility stating that the provisions of subsection (c) do not apply to such facility”;

Also on page 6, in line 25, before the semicolon, by inserting “at their own expense.”; after line 29, by inserting the following:

“Sec. 5. K.S.A. 2008 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. (a) Provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the attorney general as premises where carrying a concealed weapon is prohibited, no license issued pursuant to this act shall authorize the licensee to carry a concealed weapon into:

(1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;

(2) any police, sheriff or highway patrol station;

(3) any detention facility, prison or jail;

(4) any courthouse;

(5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge’s courtroom;

(6) any polling place on the day an election is held;

(7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof;

(8) on the state fairgrounds;

(9) any state office building;

(10) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;

(11) any professional athletic event not related to or involving firearms;

(12) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;

(13) any elementary or secondary school, attendance center, administrative office, services center or other facility;

(14) any community college, college or university facility;

(15) any place where the carrying of firearms is prohibited by federal or state law;

(16) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;

(17) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amend-



ments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility;

(18) any city hall;

(19) any public library operated by the state or by a political subdivision of the state;

(20) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420;

(21) any church or temple; or

(22) any place in violation of K.S.A. 21-4218, and amendments thereto.

(b) (1) Violation of this section is a class A misdemeanor.

(2) *Notwithstanding the provisions of subsection (a), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse or court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.*

Sec. 6. K.S.A. 2008 Supp. 75-7c11 is hereby amended to read as follows: 75-7c11. (a) Nothing in this act shall be construed to prevent:

(1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a firearm in a private means of conveyance, even if parked on the employer's premises; or

(2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed under this act from carrying a concealed weapon within a building or buildings of such entity, provided that the premises are posted, in accordance with rules and regulations adopted by the attorney general pursuant to this section, as premises where carrying a concealed weapon is prohibited.

(b) (1) Carrying a concealed weapon in violation of any restriction or prohibition allowed by subsection (a), if the premises are posted in accordance with rules and regulations adopted by the attorney general, is a class B misdemeanor.

(2) *Notwithstanding the provisions of subsection (a)(2), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse or court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.*

(c) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises where carrying a concealed weapon is prohibited pursuant to subsection (a) of K.S.A. 2008 Supp. 75-7c10 and paragraph (2) of subsection (a) of K.S.A. 2008 Supp. 75-7c11 and amendments thereto.;

And by renumbering the remaining sections accordingly;

Also on page 6, in line 30, after "21-4201" by inserting ", 75-7c10 and 75-7c11";

On page 1, in the title, in line 13, after the semicolon, by inserting "carrying a concealed weapon;"; in line 14, after "21-4201" by inserting ", 75-7c10 and 75-7c11";

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

MELVIN J. NEUFELD  
 ELAINE BOWERS  
 JUDITH LOGANBILL  
*Conferees on part of House*

THOMAS C. OWENS  
 DEREK SCHMIDT  
 DAVID HALEY  
*Conferees on part of Senate*

On motion of Rep. Neufeld, the conference committee report on **SB 19** was adopted.

On roll call, the vote was: Yeas 95; Nays 28; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Burroughs, Carlson, Crum, Davis, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Fund, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Lane, Light, Long, Lukert, Mah, Maloney, Mast, McLeland, Merrick, Morrison, Moxley, Myers, Navinsky, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Vickrey, Ward, Watkins, Wetta, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Benlon, T. Brown, Carlin, Colloton, Craft, Crow, Dillmore, Flaharty, Frownfelter, Furtado, Garcia, Henderson, Hill, Kuether, Loganbill, McCray-Miller, Menghini, Neighbor, Peterson, Quigley, Rardin, Ruiz, Slattery, Sloan, Tietze, Trimmer, Whitham, Wimm.

Present but not voting: None.

Absent or not voting: Landwehr, Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 35**, 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 2, by striking "2011" and inserting "2010"; in line 9, by striking "10%" and inserting "5%"; in line 10, by striking "13%" and inserting "6%"; by striking all in lines 13 through 15 and inserting the following:

"Sec. 2. On and after July 1, 2009, K.S.A. 2008 Supp. 12-17,166 is hereby amended to read as follows: 12-17,166. (a) One or more projects may be undertaken by a city or county within an established STAR bond project district. Any city or county proposing to undertake a STAR bond project, shall prepare a STAR bond project plan in consultation with the planning commission of the city, and in consultation with the planning commission of the county, if any, if such project is located wholly outside the boundaries of the city. Any such project plan may be implemented in separate development stages.

(b) Any city or county proposing to undertake a STAR bond project within a STAR bond project district established pursuant to K.S.A. 2008 Supp. 12-17,165, and amendments thereto, shall prepare a feasibility study. The feasibility study shall contain the following:

(1) Whether a STAR bond project's revenue and tax increment revenue and other available revenues under K.S.A. 2008 Supp. 12-17,169, and amendments thereto, are expected to exceed or be sufficient to pay for the project costs;

(2) the effect, if any, a STAR bond project will have on any outstanding special obligation bonds payable from the revenues described in K.S.A. 2008 Supp. 12-17,169, and amendments thereto;

(3) a statement of how the jobs and taxes obtained from the STAR bond project will contribute significantly to the economic development of the state and region;

(4) visitation expectations;

- (5) the unique quality of the project;
  - (6) economic impact study;
  - (7) market study;
  - (8) market impact study;
  - (9) integration and collaboration with other resources or businesses;
  - (10) the quality of service and experience provided, as measured against national consumer standards for the specific target market;
  - (11) project accountability, measured according to best industry practices;
  - (12) the expected return on state and local investment that the project is anticipated to produce;
  - (13) a statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the STAR bond project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:
    - (A) The percentage of city and county sales and use taxes collected that are so committed; and
    - (B) the date or dates on which the city and county sales and use taxes pledged to other uses can be pledged for repayment of bonds; and
  - (14) an anticipated principal and interest payment schedule on the bond issue.
- The failure to include all information enumerated in this subsection in the feasibility study for a STAR bond project shall not affect the validity of bonds issued pursuant to this act.
- (c) If the city or county determines the project is feasible, the project plan shall include:
    - (1) A summary of the feasibility study done as defined in subsection (b) of this section, and amendments thereto;
    - (2) a reference to the district plan established under K.S.A. 2008 Supp. 12-17,165, and amendments thereto, that identifies the project area that is set forth in the project plan that is being considered;
    - (3) a description and map of the project area to be redeveloped;
    - (4) the relocation assistance plan as described in K.S.A. 2008 Supp. 12-17,172, and amendments thereto;
    - (5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and
    - (6) any other information the governing body of the city or county deems necessary to advise the public of the intent of the project plan.
  - (d) A copy of the STAR bond project plan prepared by a city shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the STAR bond project area. A copy of the STAR bond project plan prepared by a county shall be delivered to the board of education of any school district levying taxes on property within the STAR bond project area.
  - (e) Upon a finding by the planning commission that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the city, and a finding by the planning commission of the county, if any, with respect to a STAR bond project located wholly outside the boundaries of the city, that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the county, the governing body of the city or county shall adopt a resolution stating that the city or county is considering the adoption of the STAR bond project plan. Such resolution shall:
    - (1) Give notice that a public hearing will be held to consider the adoption of the STAR bond project plan and fix the date, hour and place of such public hearing;
    - (2) describe the boundaries of the STAR bond project district within which the STAR bond project will be located and the date of establishment of such district;
    - (3) describe the boundaries of the area proposed to be included within the STAR bond project area; and
    - (4) state that the STAR bond project plan, including a summary of the feasibility study, market study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped or developed are available for inspection during regular office hours in the office of the city clerk or county clerk, respectively.

(f) (1) The date fixed for the public hearing to consider the adoption of the STAR bond project plan shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(2) A copy of the city or county resolution providing for the public hearing shall be by certified mail, return receipt requested, sent by the city to the board of county commissioners of the county and by the city or county to the board of education of any school district levying taxes on property within the proposed STAR bond project area. Copies also shall be sent by certified mail, return receipt requested to each owner and occupant of land within the proposed STAR bond project area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city or county newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the STAR bond project area shall be published with the resolution.

(3) At the public hearing, a representative of the city or county shall present the city's or county's proposed STAR bond project plan. Following the presentation of the STAR bond project area, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

(g) The public hearing records and feasibility study shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

(h) Upon conclusion of the public hearing, the governing body may adopt the STAR bond project plan by ordinance or resolution passed upon a two-thirds vote of the members.

(i) After the adoption by the city or county governing body of a STAR bond project plan, the clerk of the city or county shall transmit a copy of the description of the land within the STAR bond project district, a copy of the ordinance or resolution adopting the plan and a map or plat indicating the boundaries of the district to the clerk, appraiser and treasurer of the county in which the district is located and to the governing bodies of the county and school district which levy taxes upon any property in the district. Such documents shall be transmitted following the adoption or modification of the plan or a revision of the plan on or before January 1 of the year in which the increment is first allocated to the taxing subdivision.

~~(j) The appraiser of any county in which a STAR bond project district is authorized by a city or county shall certify the amount of such increase in assessed valuation of real and personal property within the STAR bond project district to the county clerk on or before July 1 of each year.~~

~~(k) If the STAR bond project plan is approved, the feasibility study shall be supplemented to include a copy of the minutes of the governing body meetings of any city or county whose bonding authority will be utilized in the STAR bond project, evidencing that a STAR bond project plan has been created, discussed and adopted by the city or county in a regularly scheduled open public meeting.~~

~~(l) Any substantial changes as defined in K.S.A. 2008 Supp. 12-17,162, and amendments thereto, to the STAR bond project plan as adopted shall be subject to a public hearing following publication of notice thereof at least twice in the official city or county newspaper.~~

~~(m) Any STAR bond project shall be completed within 20 years from the date of the approval of the STAR bond project plan. The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years.~~

~~(n) Kansas resident employees shall be given priority consideration for employment in construction projects located in a STAR bond project area.~~

~~(o) Any developer of a STAR bond project shall commence work on the project within two years from the date of adoption of the STAR bond project plan. Should the developer fail to commence work on the STAR bond project within the two-year period, funding for such project shall cease and the developer of such project or complex shall have one year to appeal to the secretary for reapproval of such project and the funding for it. Should the project be reapproved, the two-year period for commencement shall apply.~~

Sec. 3. From and after July 1, 2009, K.S.A. 2008 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation

from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit  $\frac{5}{100}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit  $\frac{5}{100}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit  $\frac{19}{200}$  of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2007, the state treasurer shall credit  $\frac{13}{100}$  of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a ~~redevelopment~~ STAR bond project district occupied by a ~~redevelopment~~ STAR bond project or taxpayers doing business with such entity financed by a ~~special~~ STAR bond project as defined in K.S.A. ~~12-1770a~~ 2008 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a ~~special~~ STAR bond project as defined in K.S.A. ~~12-1770a~~ 2008 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such ~~redevelopment or special~~ STAR bond project.

Sec. 4. From and after July 1, 2009, K.S.A. 2008 Supp. 79-3620b is hereby amended to read as follows: 79-3620b. Moneys credited to the city bond finance fund in accordance with the provisions of subsections (d) of K.S.A. 79-3620 and (d) of K.S.A. 79-3710, and amendments thereto, shall be distributed biannually to cities which have issued special obligation bonds to finance, in whole or in part, a ~~redevelopment~~ STAR bond project which was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. ~~12-1770a~~ 2008 Supp. 12-17,162, and amendments thereto. The state treasurer shall make such biannual distributions on such dates as mutually agreed to by the city and the state treasurer. The total of all distributions under this section shall not exceed an amount determined to be sufficient to retire the principal and interest payable on such special obligation bonds. Moneys paid

to cities hereunder shall be deposited in a special fund of the city to pay the costs described herein.

Sec. 5. K.S.A. 2008 Supp. 10-1009 is hereby repealed.

Sec. 6. From and after July 1, 2009, K.S.A. 2008 Supp. 12-17,166, 79-3620 and 79-3620b are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, in line 10, by striking all after “concerning”; in line 11, by striking all before the period and inserting “bonds; pertaining to interest rates; pertaining to bond revenue sources; amending K.S.A. 2008 Supp. 10-1009, 12-17,166, 79-3620 and 79-3620b and repealing the existing sections”;

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

SHARON SCHWARTZ

MITCH HOLMES

DELIA GARCIA

*Conferees on part of House*

DAVID WYSONG

JULIA LYNN

TOM HOLLAND

*Conferees on part of Senate*

On motion of Rep. Schwartz, the conference committee report on **SB 35** was adopted.

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

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kleeb, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slatery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, DeGraaf, Kinzer, Merrick, Peck.

Present but not voting: None.

Absent or not voting: Landwehr, Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER Your committee on conference on House amendments to **SB 44**, 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 3, in line 35, by striking “more” and inserting “:

(1) More”;

Also on page 3, in line 36, by striking all after the stricken word and inserting “committed; or

(2) more than 3 years after the date on which the violation was discovered or reasonably should have been discovered, but in no event more than 10 years after the date on which the violation was committed, whichever occurs last.”;

On page 5, after line 26, by inserting the following:

“Sec. 12. K.S.A. 60-455 is hereby amended to read as follows: 60-455. (a) Subject to K.S.A. 60-447, and amendments thereto, evidence that a person committed a crime or civil wrong on a specified occasion, is inadmissible to prove ~~his or her~~ such person's disposition

to commit crime or civil wrong as the basis for an inference that the person committed another crime or civil wrong on another specified occasion ~~but~~.

(b) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, such evidence is admissible when relevant to prove some other material fact including motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident.

(c) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, in any criminal action other than a criminal action in which the defendant is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, such evidence is admissible to show the *modus operandi* or general method used by a defendant to perpetrate similar but totally unrelated crimes when the method of committing the prior acts is so similar to that utilized in the current case before the court that it is reasonable to conclude the same individual committed both acts.

(d) Except as provided in K.S.A. 60-445, and amendments thereto, in a criminal action in which the defendant is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, evidence of the defendant's commission of another act or offense of sexual misconduct is admissible, and may be considered for its bearing on any matter to which it is relevant and probative.

(e) In a criminal action in which the prosecution intends to offer evidence under this rule, the prosecuting attorney shall disclose the evidence to the defendant, including statements of witnesses, at least 10 days before the scheduled date of trial or at such later time as the court may allow for good cause.

(f) This rule shall not be construed to limit the admission or consideration of evidence under any other rule or to limit the admissibility of the evidence of other crimes or civil wrongs in a criminal action under a criminal statute other than in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(g) As used in this section, an "act or offense of sexual misconduct" includes:

(1) Any conduct proscribed by article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(2) the sexual gratification component of aggravated trafficking, as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-3447, and amendments thereto;

(3) exposing another to a life threatening communicable disease, as described in subsection (a)(1) of K.S.A. 21-3435, and amendments thereto;

(4) incest, as described in K.S.A. 21-3602, and amendments thereto;

(5) aggravated incest, as described in K.S.A. 21-3603, and amendments thereto;

(6) contact, without consent, between any part of the defendant's body or an object and the genitals, mouth or anus of the victim;

(7) contact, without consent, between the genitals, mouth or anus of the defendant and any part of the victim's body;

(8) deriving sexual pleasure or gratification from the infliction of death, bodily injury or physical pain to the victim;

(9) an attempt, solicitation or conspiracy to engage in conduct described in paragraphs (1) through (8); or

(10) any federal or other state conviction of an offense, or any violation of a city ordinance or county resolution, that would constitute an offense under article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, the sexual gratification component of aggravated trafficking, as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-3447, and amendments thereto; incest, as described in K.S.A. 21-3602, and amendments thereto; or aggravated incest, as described in K.S.A. 21-3603, and amendments thereto, or involved conduct described in paragraphs (6) through (9).

(h) If any provisions of this section or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or application. To this end the provisions of this section are severable.

Sec. 13. K.S.A. 60-1505 is hereby amended to read as follows: 60-1505. (a) *Summary proceedings*. The judge shall proceed in a summary way to hear and determine the cause and may do so regardless of whether the person restrained is present. If the plaintiff is an inmate in the custody of the secretary of corrections and the motion and the files and records

of the case conclusively show that the inmate is entitled to no relief, the writ shall be dissolved at the cost of the inmate.

(b) *Infectious diseases.* When any person is restrained because of an alleged infectious or communicable disease, the judge ~~shall appoint a board of not less than two competent physicians to make an examination of such person and report their findings to the judge; may appoint at least one competent physician to make an examination of such person and report findings to the judge.~~

(c) *Temporary orders.* The judge may make an order for the temporary custody of the party and any other temporary orders during the pendency of the proceeding that justice may require.

(d) *Judgment.* If the court determines that the restraint is not wrongful, the writ shall be dissolved at the cost of the plaintiff. If the restraint is found to be wrongful, the judgment shall be either that the person shall be released, or that custody shall be transferred to some other person rightfully entitled thereto, and the court may make such other orders as justice and equity or the welfare of a minor physically present in the state may require. In cases in which the person restrained is a minor, or other incompetent or incapacitated, at the time of rendering judgment at the request of any person adversely affected thereby, the judge shall stay the enforcement of the judgment for a period of not to exceed 48 hours to permit the filing of an appeal, and the judge may provide for the temporary custody of the person during such stay in such manner as the judge sees fit. Enforcement of the judgment after the taking of any appeal may be stayed on such terms and conditions, including such provisions for custody during pendency of the appeal, as the judge shall prescribe. If the state, in open court, announces its intention to appeal from an order discharging a prisoner, the judge shall stay the enforcement of the judgment for a period not more than 24 hours to permit the filing of an appeal.

(e) (1) *The Record.* In habeas corpus proceedings involving extradition to another state, when written notice of appeal from a judgment or an order is filed, the transcript shall be prepared within 20 days after the notice of appeal is filed and sent to the appellate court for review. The appellate court may shorten or extend the time for filing the record if there is a reasonable explanation for the need for such action. When the record is received by the appellate court, the court shall set the time for filing of briefs, if briefs are desired, and shall set the appeal for submission.

(2) *Hearing.* Such cases, taken to the court of appeals by appeal, shall be heard at the earliest practicable time. The appellant need not be personally present, and such appeal shall be heard and determined upon the law and the facts arising upon record. No incidental question which may have arisen on the hearing of the application before the court shall be reviewed.

(3) *Orders on Appeal.* In such cases, the appellate court shall render such judgment and make such orders as the law and the nature of the case may require, and may make such orders relative to the costs in the case as may seem right, allowing costs and fixing the amount, or allowing no cost at all.

Sec. 14. K.S.A. 60-455 and 60-1505 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 10, after “concerning” by inserting “civil procedure; relating to”; also in line 10 by striking “relating to the”; in line 12, before the period by inserting “; rules of evidence; admissibility of prior acts or offenses; habeas corpus; infectious disease; amending K.S.A. 60-455 and 60-1505 and repealing the existing sections”;

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

LANCE KINZER  
JEFF WHITHAM  
JANICE L. PAULS  
*Conferees on part of House*

THOMAS C. OWENS  
DEREK SCHMIDT  
DAVID HALEY  
*Conferees on part of Senate*



On motion of Rep. Kinzer, the conference committee report on **SB 44** was adopted.

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

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 87**, 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 10, by striking all in lines 4 through 19;

And by renumbering the remaining sections accordingly;

On page 19, in line 35, before the period by inserting ”;

(3) based upon an investigation of the facts by the state agency, beyond receipt of the allegations, the state agency believes in good faith that the allegations will be supported to the applicable standard of proof, provided however that an alleged failure to meet the standards set forth in this subsection shall not be subject to immediate judicial review and shall not invalidate any later agency action that has been supported to the applicable standard of proof; and

(4) the order does not take effect until after the time for requesting a hearing has expired”;

On page 24, in line 26, by striking “77-512,”

On page 1, in the title, in line 14, by striking “77-512,”;

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

LANCE KINZER

JEFF WHITHAM

JANICE L. PAULS

*Conferees on part of House*

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

*Conferees on part of Senate*

On motion of Rep. Kinzer, the conference committee report on **SB 87** was adopted.

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

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether,

Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 154**, submits the following report:

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

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

On page 2, by striking all in lines 1 through 27 and inserting in lieu thereof the following: "New Section 1. As used in this act:

(a) "Act" means the provisions of K.S.A. 50-6a01 through 50-6a06, and amendments thereto, and the provisions of sections 1 through 15, and amendments thereto.

(b) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes.

(c) "Cigarette" has the same meaning given that term in subsection (d) of K.S.A. 50-6a02, and amendments thereto.

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

(e) "Master settlement agreement" has the same meaning given that term in subsection (e) of K.S.A. 50-6a02, and amendments thereto.

(f) "Non-participating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(g) "Participating manufacturer" has the meaning given that term in subsection (i)(1) of K.S.A. 50-6a02, and amendments thereto.

(h) "Qualified escrow fund" has the same meaning given that term in subsection (f) of K.S.A. 50-6a02, and amendments thereto.

(i) "Resident agent" means a domestic corporation, a domestic limited partnership, a domestic limited liability company or a domestic business trust or a foreign corporation, a foreign limited partnership, a foreign limited liability company or a foreign business trust authorized to transact business in this state, and which is generally open during regular business hours to accept service of process on behalf of a non-participating manufacturer.

(j) "Retail dealer" has the same meaning given that term in subsection (q) of K.S.A. 79-3301, and amendments thereto.

(k) "Stamping agent" means a person who is authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, or any person who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto.

(l) "Tax indicia" has the same meaning given that term in subsection (u) of K.S.A. 79-3301, and amendments thereto.

(m) "Tobacco product manufacturer" has the same meaning given that term in subsection (i) of K.S.A. 50-6a02, and amendments thereto.

(n) "Units sold" has the same meaning given that term in subsection (j) of K.S.A. 50-6a02, and amendments thereto.

(o) "Vending machine operator" has the same meaning given that term in subsection (y) of K.S.A. 79-3301, and amendments thereto.

New Sec. 2. (a) Any non-participating manufacturer that has not registered with the secretary of state to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this act may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the non-participating manufacturer. The non-participating manufacturer shall provide to the attorney general the name, address, phone number, proof of the appointment and availability of such resident agent, and such information shall be provided to the satisfaction of the attorney general.

(b) (1) A non-participating manufacturer may substitute its resident agent for another by notifying, in writing sent via certified or registered mail, the attorney general of such termination of the authority of the current agent and providing proof to the satisfaction of the attorney general of the appointment of a new agent. Such substitution shall not become effective until 30 days after receipt of such notification by the attorney general.

(2) A resident agent of a non-participating manufacturer that wishes to resign shall notify the attorney general, in writing via certified or registered mail, and provide to the attorney general the name and address of the successor agent. There shall be attached to the notification a statement of each affected non-participating manufacturer ratifying such change of resident agent. Upon receipt of such notification by the attorney general, the successor resident agent shall become the resident agent of such non-participating manufacturers that have ratified and approved the substitution.

(3) (A) A resident agent of a non-participating manufacturer may resign without appointing a successor by notifying, in writing sent via certified or registered mail, the attorney general. Such resignation shall not become effective until 60 days after receipt of such notification by the attorney general. There shall be attached to the notification an affidavit by the resident agent, if an individual, or by the authorized officer, if a corporation or other business entity, attesting that at least 30 days prior to the expiration of the 60 day period, notice was sent via certified or registered mail to the designated contact of the non-participating manufacturer for which such resident agent was acting that such agent was resigning its position.

(B) After receipt of the notice of resignation of its resident agent, the non-participating manufacturer for which such resident agent was acting shall obtain and designate a new resident agent to take the place of the resigning resident agent. If such non-participating manufacturer fails to obtain and designate a new resident agent and provide notice thereof, in writing via certified or registered mail, to the attorney general prior to the expiration of the 60-day period provided in subparagraph (A), such non-participating manufacturer shall be removed from the directory.

(4) If a resident agent of a non-participating manufacturer dies, the non-participating manufacturer shall have 30 days after the death of such resident agent to appoint and notify, in writing via certified or registered mail, the attorney general of the non-participating manufacturer's new resident agent. Service upon the non-participating manufacturer after the death of such agent but prior to the appointment of a new agent shall be had upon the secretary of state. Failure by the non-participating manufacturer to appoint a new resident agent, and provide proof of such appointment to the satisfaction of the attorney general prior to the expiration of the 30-day period shall result in removal from the directory.

(5) After the resignation of the resident agent becomes effective as provided in subparagraph (3)(A), or after the death of such resident agent as provided in paragraph (4), and if no new resident agent is obtained and notification is provided in the time and manner required in this section, then service of process against the non-participating manufacturer for which the previous resident agent had been acting shall thereafter be made upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(c) A non-participating manufacturer shall provide irrevocable written consent that actions brought under this act may be commenced against it in the district court of the third judicial

district, Shawnee county, Kansas, by service of process on the appointed service of process agent designated pursuant to this section.

(d) A resident agent may change the resident agent's address when appointed to accept service of process on behalf of a non-participating manufacturer for which such agent is a resident agent, to another address in this state by mailing a letter, via certified or registered mail, to the attorney general. The letter shall be on company letterhead and executed by the resident agent. The letter shall contain the following:

- (1) The names of all non-participating manufacturers represented by the resident agent;
- (2) the address at which the resident agent has maintained the resident agent's office for each manufacturer;
- (3) a certification of the new address to which the resident agent's address will be changed to on a given day; and
- (4) a certification at which the resident agent will thereafter maintain the resident agent's address for each of the non-participating manufacturers recited in the letter.

Upon the filing of the letter with the attorney general and thereafter, or until further change of address, as authorized by law, the office address of the resident agent recited in the letter shall be located at the new address of the resident agent as provided in the letter.

New Sec. 3. (a) (1) No later than 10 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, shall submit such information as the attorney general or director requires. No later than 20 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto, shall submit such information as the attorney general or director requires.

(2) Invoices and documentation of sales of all non-participating manufacturer cigarettes, and any other information relied upon in reporting to the director shall, upon request, be made available to the director. Such invoices and documents shall be maintained for a period of at least three years.

(b) At any time, the attorney general may request from the non-participating manufacturer or the financial institution at which such manufacturer has established a qualified escrow fund for the purpose of compliance with subsection (b) of K.S.A. 50-6a03, and amendments thereto, proof of the amount of money in such fund, exclusive of interest, the amount and date of each deposit to such fund and the amount and date of each withdrawal from such fund.

(c) In addition to the information required to be submitted pursuant to subsections (a) and (b) and subsection (c) of K.S.A. 50-6a04, and amendments thereto, the attorney general or the director may require a stamping agent or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with this act.

(d) A stamping agent or non-participating manufacturer receiving a request pursuant to subsection (c) shall provide the requested information within 30 calendar days from receipt of the request.

New Sec. 4. (a) The director is authorized to disclose to the attorney general any information received under this act, as requested by the attorney general for purposes of determining compliance with or enforcing the provisions of this act. The director and attorney general shall share with each other information received under this act and the director and the attorney general may share such information with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states, for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states.

(b) Except as otherwise provided, any information provided to the attorney general or director for purposes of enforcement of this act may be shared between the attorney general and the director and shall not be disclosed publicly by the attorney general or the director except when necessary to facilitate compliance with and enforcement of this act.

(c) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, the attorney general or the director may provide the name of any stamping agent who reports selling the tobacco product manufacturer's products.

(d) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, a stamping agent shall provide to the requesting tobacco product manufacturer the total number of cigarettes, by brand family, which the stamping agent reported to the attorney general or director pursuant to section 3, and amendments thereto, provided that such information provided by the stamping agent to a tobacco product manufacturer shall be limited to the brand families of that manufacturer as listed in the directory established in subsection (b) of K.S.A. 50-6a04, and amendments thereto.

(e) Unless disclosure is authorized under this section, all information obtained by the director and disclosed to the attorney general or shared with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states, shall be confidential. The penalties provided under K.S.A. 75-5133, and amendments thereto, shall not apply when information is lawfully disclosed pursuant to this section.

New Sec. 5. (a) Notwithstanding any other provision of law, if a newly qualified non-participating manufacturer is to be listed in the directory, or if the attorney general reasonably determines that any non-participating manufacturer who has filed a certification pursuant to subsection (c) of K.S.A. 50-6a04, and amendments thereto, poses an elevated risk for noncompliance with this act neither such non-participating manufacturer nor any of its brand families shall be included or retained in the directory unless and until such non-participating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's performance in accordance with subsection (c)(3)(I) of K.S.A. 50-6a04, and amendments thereto, has posted a bond in accordance with this section.

(b) The bond required by this section shall be posted by corporate surety located within the United States in an amount equal to the greater of \$50,000 or the amount of escrow the non-participating manufacturer in either its current or predecessor form was required to deposit for sales of cigarettes in this state during the previous calendar year. The bond shall be written in favor of the state of Kansas and shall be conditioned on the performance by the non-participating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's performance in accordance with subsection (c)(3)(I) of K.S.A. 50-6a04, and amendments thereto, of all of its duties and obligations under this act during the year in which the certification is filed and the next succeeding calendar year.

(c) A non-participating manufacturer may be deemed to pose an elevated risk for non-compliance with this act if:

(1) The non-participating manufacturer, or any affiliate thereof, has underpaid an escrow obligation with respect to any other state or jurisdiction that is a party to the master settlement agreement at any time within the three calendar years prior to the date of submission or approval of the most recent certification, unless:

(A) The non-participating manufacturer did not make the underpayment knowingly or recklessly and the non-participating manufacturer promptly cured the underpayment within 180 calendar days of notice of the underpayment; or

(B) the underpayment or lack of payment is the subject of a good faith dispute as documented to the satisfaction of the attorney general and the underpayment is cured within 90 calendar days of entry of a final order establishing the amount of the required escrow payment;

(2) any state or jurisdiction that is party to the master settlement agreement has removed the non-participating manufacturer, or its brands or brand families, or an affiliate, or such affiliate's brands or brand families, from the state's directory for noncompliance with the corresponding laws of such other state or jurisdiction at any time within three calendar years prior to the date of submission or approval of the most recent certification; or

(3) any state or jurisdiction that is party to the master settlement agreement has pending litigation, or an unsatisfied judgment against the non-participating manufacturer, or any affiliate thereof, for unpaid escrow obligations, or associated penalties, costs or attorney fees.

(d) As used in this section, “newly qualified non-participating manufacturer” means a non-participating manufacturer that has not previously been listed in the directory. Such non-participating manufacturer may be required to post a bond in accordance with this section for the first five years of its listing, or longer, if they have been deemed to pose an elevated risk for noncompliance.

New Sec. 6. No wholesale dealer, as defined in K.S.A. 79-3301, and amendments thereto, or distributor, as defined in K.S.A. 79-3301, and amendments thereto, of cigarettes shall be issued a license or granted a renewal of a license by the Kansas department of revenue unless such wholesale dealer or distributor has provided to the director reasonable assurances, in writing and under penalty of perjury, that such person will comply fully with the stamping agent requirements in this act.

New Sec. 7. (a) In addition to or in lieu of any other civil or criminal remedy provided by law, the director or the director’s designee, upon a finding that a stamping agent has violated subsection (a) of K.S.A. 50-6a04, and amendments thereto, or any rules or regulations adopted pursuant to this act, may revoke or suspend the license of any licensee in the manner provided by K.S.A.79-3309, and amendments thereto. Each package of cigarettes to which tax indicia is affixed, is caused to be affixed or tax is paid thereupon, and each sale or offer to sell cigarettes in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto, shall constitute a separate violation. The director may also impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5,000 upon a finding of violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto, or a violation of any rules or regulations adopted pursuant to this act. Such fine shall be imposed in the manner provided by K.S.A. 79-3391, and amendments thereto. Any fine collected pursuant to this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created pursuant to subsection (e) of K.S.A. 79-3391, and amendments thereto. The moneys credited to this fund shall be used for the purposes of enforcement of this act, or K.S.A. 79-3301 et seq., and amendments thereto.

(b) The attorney general or the attorney general’s duly authorized designee shall, when requested by the director, assist the director in a hearing to suspend or revoke a stamping agent’s license for a violation of this act.

New Sec. 8. (a) The following shall be deemed contraband under K.S.A. 79-3323, and amendments thereto:

(1) Any cigarettes that have been sold, offered for sale or possessed for sale in this state in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto; and

(2) any cigarettes to which tax indicia has been affixed, was caused to be affixed or the tax paid thereupon as required by K.S.A. 79-3311 or 79-3371, and amendments thereto, in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto.

(b) Any cigarettes constituting contraband may be seized by the attorney general or attorney general’s authorized agent, the director or director’s authorized agent or any law enforcement officer. All such cigarettes shall be subject to seizure, with or without process or warrant, and forfeiture, as provided herein and in K.S.A. 79-3324a, and amendments thereto, and shall be destroyed and not resold. Such cigarettes shall be deemed contraband whether the violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto, is knowing or otherwise.

(c) (1) Any stamping agent that distributes cigarettes in a state other than Kansas may store in its Kansas warehouse cigarettes made contraband pursuant to this section if such stamping agent has affixed the tax indicia of such other state to each package of cigarettes or can provide evidence that it has paid the required tax thereupon.

(2) Cigarettes made contraband pursuant to this section, without being subject to seizure or forfeiture, may be transported in, into or through the state either:

(A) On a commercial carrier with a proper bill of lading with an out-of-state destination;

(B) when the tax indicia of another state is affixed to each package of cigarettes; or

(C) on a commercial carrier with a proper bill of lading to a licensed Kansas stamping agent who affixes tax indicia to cigarettes for sale in a state other than Kansas if the packing

slip accompanying the shipment indicates the shipment is for sale in a state other than Kansas and identifies the state in which the shipment is to be sold. The time of delivery of the shipments shall be indicated on the bill of lading of the common carrier when delivery is completed. The receiving Kansas stamping agent must, within 24 hours of receiving the delivery, affix or caused to be affixed to each package of cigarettes the stamp of the state in which they are to be sold.

New Sec. 9. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of this act by a stamping agent and to compel the stamping agent to comply with this act.

New Sec. 10. (a) It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of subsection (a) of K.S.A. 50-6a04, and amendments thereto. A violation of this subsection shall be a class B misdemeanor.

(b) It shall be unlawful for a non-participating manufacturer, directly or indirectly, to falsely represent to any person in Kansas:

- (1) Any information about a brand family listed on the directory;
- (2) that it is a participating manufacturer;
- (3) that it has made all required escrow payments; or
- (4) that it has satisfied any other requirements imposed pursuant to this act.

A violation of this subsection is a class A nonperson misdemeanor.

(c) The attorney general shall have concurrent authority with any county or district attorney to prosecute any violation of this section.

New Sec. 11. (a) Any violation of this act involving the sale or attempted sale of cigarettes by a stamping agent to a retail dealer, vending machine operator or consumer, or by a retail dealer or vending machine operator to a consumer, shall constitute an unlawful and deceptive trade practice as provided in K.S.A. 50-626, and amendments thereto, and shall be subject to the penalties provided for in K.S.A. 50-623 et seq., and amendments thereto, in lieu of or in addition to any penalties provided in this act.

(b) For purposes of this section, a stamping agent shall be deemed a "supplier" for purposes of a consumer transaction, as defined in subsection (c) of K.S.A. 50-624, and amendments thereto, regardless of whether the stamping agent sells to a retail dealer or consumer.

(c) If a court determines that a person has violated this act, the court shall order any profits, gains, gross receipts or other benefit from the violation be surrendered. Any profits, gains, gross receipts or other benefit surrendered from the violation shall be collected pursuant to this subsection and shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created pursuant to subsection (e) of K.S.A. 79-3391, and amendments thereto.

(d) Unless otherwise expressly provided, the remedies or penalties provided by this act are cumulative to each other and to the remedies or penalties under all other laws of this state.

New Sec. 12. In any action brought by the state to enforce the provisions of this act the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action and reasonable attorney fees. Recovery of such costs and fees shall be remitted to the state agency or agencies who initiated and brought such action.

New Sec. 13. In any action under K.S.A. 50-6a03, and amendments thereto, reports of the numbers of non-participating manufacturers' cigarettes submitted to the attorney general or director pursuant to subsection (a) of section 3, and amendments thereto, shall be admissible in evidence. These reports shall be presumed to accurately account for the number of cigarettes on which state taxes were paid during the time period by the stamping agent that submitted the report absent a contrary showing by the non-participating manufacturer or importer. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that such reports are incorrect or do not accurately reflect a non-participating manufacturer's sales in the state during the time period in question, and the presumption shall not apply in the event the state does so maintain.

New Sec. 14. Notwithstanding subsection (j) of K.S.A. 50-6a02, and amendments thereto, the attorney general may promulgate rules and regulations necessary to effect the purposes of this act for the regulation of tobacco product manufacturers. The director may promulgate rules and regulations necessary to effect the purposes of this act for the regulation of stamping agents, retail dealers and vending machine operators.

New Sec. 15. If a court of competent jurisdiction finds that the provisions of K.S.A. 50-6a01 through 50-6a03, and amendments thereto, conflict with and cannot be reconciled with any other provisions of this act, then such provisions of K.S.A. 50-6a01 thru 50-6a03, and amendments thereto, shall control. If any provision of this act causes K.S.A. 50-6a01 through 50-6a03, and amendments thereto, to no longer constitute a qualifying or model statute as those terms are defined in the master settlement agreement, then that portion of this act shall not be valid. If any provision of this act is for any reason held to be invalid, unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this act or any part thereof.

Sec. 16. K.S.A. 50-6a04 is hereby amended to read as follows: 50-6a04. (a) ~~No person may affix, or cause to be affixed, tax stamps or meter impressions to individual packages of cigarettes or pay the required tax on roll-your-own tobacco in accordance with K.S.A. 79-3371, and amendments thereto, unless the tobacco product manufacturer that makes or sells such cigarettes or roll-your-own tobacco has:~~

- ~~(1) Become a participating manufacturer; or~~
- ~~(2) made all required escrow payments.~~

*No person may:*

(1) *Affix, or cause to be affixed, tax indicia to a package of cigarettes, or otherwise pay the tax due upon such cigarettes, of a tobacco product manufacturer brand family not included in the directory; or*

(2) *sell, offer, possess for sale or import for personal consumption in this state, cigarettes of a tobacco product manufacturer brand family not included in the directory.*

(b) (1) Not later than July 1, ~~2002~~ 2009, the attorney general shall develop a ~~list~~ *directory*, to be posted on the attorney general's website, of ~~all tobacco product manufacturers that have become participating manufacturers or made all required escrow payments. This list shall include the brand families identified by each such tobacco product manufacturer under subsection (c). The list shall be updated as necessary. A person may rely upon the attorney general's list in affixing or causing to be affixed stamps or meter impressions to individual packages of cigarettes or paying the tax on roll-your-own tobacco as required by K.S.A. 79-3371, and amendments thereto, of any brand family included on the list. Except as otherwise provided, the directory shall list all tobacco product manufacturers and brand families of such tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (c).~~

(2) *The attorney general shall not include or retain in the directory any non-participating manufacturer, or non-participating manufacturer's brand family, that has failed to provide the required certification, or whose certification the attorney general determines is not in compliance with subsection (c), unless such failure or noncompliance has been cured to the satisfaction of the attorney general.*

(3) *In the case of a non-participating manufacturer, neither the tobacco product manufacturer nor a brand family shall be included or retained in the directory if the attorney general concludes:*

(A) *That an escrow payment required pursuant to K.S.A. 50-6a03, and amendments thereto, for any period for any brand family, whether or not listed by such non-participating manufacturer, has not been fully paid into a qualified escrow fund governed by an escrow agreement that has been approved by the attorney general;*

(B) *that an outstanding final judgment, including interest thereon, for a violation of K.S.A. 50-6a03, and amendments thereto, has not been fully satisfied for such tobacco product manufacturer; or*

(C) *that, within three calendar years prior to the date of submission or approval of the most recent certification, such tobacco product manufacturer has defaulted on escrow payments in any other state or jurisdiction that is a party to the master settlement agreement and the default has not been cured within 90 calendar days of such default.*



(4) *The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family so as to keep the directory in conformity with the requirements of this act.*

(5) *The attorney general shall promptly post in the directory and transmit by electronic mail to each stamping agent that has provided an electronic mail address, notice of removal from the directory of a tobacco product manufacturer or brand family.*

(6) *Unless otherwise provided by agreement between a stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer in the possession of the stamping agent on the effective date of removal from the directory of that tobacco product manufacturer or brand family.*

(7) *Unless otherwise provided by agreement between a retail dealer or a vending machine operator and a tobacco product manufacturer, a retail dealer or a vending machine operator shall be entitled to a refund from a tobacco product manufacturer for any money paid by the retail dealer or vending machine operator to a stamping agent for any cigarettes of the tobacco product manufacturer still in the possession of the retail dealer or vending machine operator on the effective date of removal from the directory of that tobacco product manufacturer or brand family.*

(c) *In order to be included on the list developed by the attorney general under subsection (b), a tobacco product manufacturer shall (1) submit to the attorney general a list of brand families whose cigarettes are to be counted in calculating the participating manufacturer's annual payments under the master settlement agreement or required escrow payments whichever is applicable, (2) appoint a registered agent for service of process in the state and identify such registered agent to the attorney general, and (3) certify, under penalty of perjury, that all escrow payments have been made by all other tobacco product manufacturers that previously made or sold brand families identified under this subsection or brand style included within such brand families, except that, if the brand family or brand style was made or sold by the manufacturer before the effective date of this act, such manufacturer shall be required only to identify such predecessor manufacturer or manufacturers. A tobacco product manufacturer may update the list to reflect changes: (1) On or before April 30 of each year, every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a stamping agent or similar intermediary or intermediaries, shall execute and deliver in the manner prescribed by the attorney general a certification to the attorney general certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is:*

(A) *A participating manufacturer; or*

(B) *in full compliance with K.S.A. 50-6a03, and amendments thereto, including payment of all quarterly installment payments as may be required by subsection (d).*

(2) *A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list 30 calendar days prior to any addition to, or modification of its brand families by executing and delivering a supplemental certification to the attorney general.*

(3) *A non-participating manufacturer shall include in its certification:*

(A) *The number of units sold for each brand family sold in the state during the preceding calendar year;*

(B) *a list of all of its brand families sold in the state at any time during the current calendar year, including any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification;*

(C) *the identity, by name and address, of any other tobacco product manufacturer who manufactured such brand families in the preceding or current calendar year;*

(D) *a declaration that such non-participating manufacturer is registered to do business in the state, or has appointed a resident agent for service of process, and provided notice thereof as required by section 2, and amendments thereto;*

(E) *a declaration that such non-participating manufacturer:*

(i) *Has established and continues to maintain a qualified escrow fund; and*

(ii) has executed an escrow agreement that governs the qualified escrow fund and that such escrow agreement has been reviewed and approved by the attorney general;

(F) a declaration that such non-participating manufacturer consents to the jurisdiction of the district court of the third judicial district, Shawnee county, Kansas, for purposes of enforcing this act, or rules or regulations promulgated pursuant thereto, as required by subsection (c) of section 2, and amendments thereto;

(G) a declaration that such non-participating manufacturer is in full compliance with subsection (b) of K.S.A. 50-6a03, and amendments thereto, and any rules or regulations promulgated pursuant to this act;

(H) (i) the name, address and telephone number of the financial institution where the non-participating manufacturer has established such qualified escrow fund required pursuant to subsection (b) of K.S.A. 50-6a03, and amendments thereto;

(ii) the account number of such qualified escrow fund and any sub-account number for the state of Kansas;

(iii) the amount such non-participating manufacturer placed in such qualified escrow fund for cigarettes sold in this state during the preceding calendar year, the date and amount of each such deposit and such evidence or verification as may be deemed necessary by the attorney general to confirm the foregoing; and

(iv) the amount and date of any withdrawal or transfer of funds the non-participating manufacturer made at any time from such qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to subsection (b) of K.S.A. 50-6a03, and amendments thereto; and

(I) in the case of a non-participating manufacturer located outside of the United States, a declaration from each of its importers to the United States of any of its brand families to be sold in Kansas that such importer accepts joint and several liability with the non-participating manufacturer for:

(i) All escrow deposits due under subsection (b) of K.S.A. 50-6a03, and amendments thereto;

(ii) all penalties assessed under subsection (b) of K.S.A. 50-6a03, and amendments thereto; and

(iii) payment of all costs and attorney fees pursuant to any successful action under this act against said manufacturer.

Such declarations by importers of a non-participating manufacturer shall appoint for the declarant a resident agent for service of process in Kansas in accordance with section 2, and amendments thereto, and consent to jurisdiction in accordance with section 2, and amendments thereto.

(4) A tobacco product manufacturer may not include a brand family in its certification unless:

(A) In the case of a participating manufacturer, said participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year in the volume and shares determined pursuant to the master settlement agreement; or

(B) in the case of a non-participating manufacturer, said non-participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of subsection (b) of K.S.A. 50-6a03, and amendments thereto.

Nothing in this paragraph shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or subsection (b) of K.S.A. 50-6a03, and amendments thereto.

(5) Invoices and documentation of sales and other such information relied upon for such certification shall be maintained by tobacco product manufacturers for a period of at least five years.

(d) In addition to or in lieu of any other civil or criminal penalty provided by law, upon a finding that a licensee has violated subsection (a) or any rules and regulations adopted pursuant thereto, the director may revoke or suspend the license of any licensee in the manner provided by K.S.A. 79-3309, and amendments thereto. The director may also impose a civil fine in an amount not to exceed the greater of 500% of the retail value of the

cigarettes or roll-your-own tobacco involved or \$5,000 upon a finding of a violation of subsection (a) or any rules and regulations adopted pursuant thereto. Such fine shall be imposed in the manner provided by K.S.A. 79-3391, and amendments thereto. *The attorney general may require a tobacco product manufacturer subject to the requirements of subsection (c) to make the escrow deposits required by subsection (b) of K.S.A. 50-6a03, and amendments thereto, in quarterly installments during the calendar year in which the sales covered by such deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit.*

~~(c) Any cigarettes or roll-your-own tobacco that are stamped, to which a meter impression is affixed or for which tax is paid as required by K.S.A. 79-3371, and amendments thereto; in violation of subsection (a) shall be deemed contraband under K.S.A. 79-3323, and amendments thereto, and shall be subject to seizure and forfeiture as provided therein and in K.S.A. 79-3324a, and amendments thereto. All such cigarettes and roll-your-own tobacco seized and forfeited shall be destroyed. Such cigarettes and roll-your-own tobacco shall be deemed contraband whether the violation of subsection (a) is knowing or otherwise:~~

~~—(f) (1) The director may require wholesale dealers and distributors to submit such information as is necessary to enable the attorney general to determine whether a nonparticipating manufacturer has made the required escrow payments.~~

~~—(2) The attorney general may require nonparticipating manufacturers to submit such information as the attorney general may determine is necessary to enable the attorney general to determine whether a nonparticipating manufacturer has made the required escrow payments.~~

~~—(g) The attorney general may require a nonparticipating manufacturer to make the required escrow payments in quarterly installments during the year in which the sales covered by such payments are made in order to be placed on the list developed by the attorney general under subsection (b).~~

~~—(h) (1) It shall be unlawful for a nonparticipating manufacturer, directly or indirectly, to falsely represent to any person in Kansas:~~

~~—(A) Any information about a brand family pursuant to the list submitted pursuant to subsection (b);~~

~~—(B) that it is a participating manufacturer;~~

~~—(C) that it has made all required escrow payments; or~~

~~—(D) that it has satisfied any other requirements imposed pursuant to this statute.~~

~~—(2) Violation of this section is a class A, nonperson misdemeanor.~~

~~—(i) The director and the attorney general may enter into a written agreement authorizing the exchange of information reasonably necessary to the enforcement and administration of this section.~~

~~—(j) As used in this section:~~

~~—(1) "Participating manufacturer" has the meaning ascribed thereto in subsection (a) of K.S.A. 50-6a03, and amendments thereto.~~

~~—(2) "Required escrow payments" means the amounts described in subsection (b)(1) of K.S.A. 50-6a03, and amendments thereto.~~

~~—(3) "Director" means the director of taxation."~~

And by renumbering sections accordingly;

Also on page 2, in line 28, by striking "60-1505" and inserting "50-6a04"; in line 30, by striking "Kansas register" and inserting "statute book";

In the title, in line 10, by striking all after "concerning"; in line 11, by striking "disease; amending K.S.A. 60-1505" and inserting "tobacco; relating to the enforcement of the laws regarding the sale of cigarettes; amending K.S.A. 50-6a04";

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

LANCE KINZER

JEFF WHITHAM

JANICE L. PAULS

*Conferees on part of House*

THOMAS C. OWENS  
DEREK SCHMIDT  
DAVID HALEY

*Conferees on part of Senate*

On motion of Rep. Kinzer, the conference committee report on **SB 154** was adopted.

On roll call, the vote was: Yeas 121; Nays 3; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, Dillmore, Lane.

Present but not voting: None.

Absent or not voting: Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 225**, submits the following report:

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

On page 1, in line 29, by striking "participation in" and inserting "a matching grant under"; following line 30, by inserting the following:

"(6) "Application" means an application for a matching grant under the program.";

Also on page 1, in line 31, by striking "(6)" and inserting "(7)";

On page 2, in line 5, by striking "for participation in the program"; in line 22, by striking "accounts" and inserting "applications"; in line 32, by striking "participant" and inserting "application";

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

TERRIE HUNTINGTON  
MARC RHOADES  
ANN E. MAH

*Conferees on part of House*

JEAN KURTIS SCHODORF  
JOHN VRATIL  
ANTHONY HENSLEY

*Conferees on part of Senate*

On motion of Rep. Huntington, the conference committee report on **SB 225** was adopted.

On roll call, the vote was: Yeas 106; Nays 18; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huntington, Jack, Johnson, Kerschen, Kiegerl, King, Kleeb, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller,

Menghini, Morrison, Moxley, Myers, Navinsky, Neighbor, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, A. Brown, Brunk, DeGraaf, Gordon, Huebert, Kelley, Kinzer, Knox, Landwehr, Mast, McLeland, Merrick, Neufeld, O'Brien, Peck, Powell, Schwartz.

Present but not voting: None.

Absent or not voting: Seiwert.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2131**, 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 16 through 43;

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

"Section 1. The secretary of transportation is hereby authorized to establish an intermodal transportation revolving fund to provide assistance to governmental units for intermodal transportation projects.

Sec. 2. As used in sections 1 through 7, and amendments thereto:

(a) "Cost" means as applied to any qualified project, any or all costs, whenever incurred, approved by the department, for carrying out a qualified project;

(b) "department" means the department of transportation, established under K.S.A. 75-5001, and amendments thereto;

(c) "fund" means the Kansas intermodal transportation revolving fund established by section 4, and amendments thereto;

(d) "governmental unit" means any town, city, district, county, commission, agency, authority, board or other instrumentality of the state or of any of its political subdivisions, including any combination thereof, which has a qualified project located within the boundaries of such entity or within the jurisdiction of such entity;

(e) "intermodal facility" means land, improvements, personal property and fixtures developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations with a cost in excess of \$150,000,000;

(f) "intermodal transportation area" means an area including an intermodal facility and such additional area certified by the secretary to be impacted by such intermodal facility;

(g) "intermodal transportation project" means any bridge, culvert, highway, road, street, underpass, railroad crossing or combination thereof located within an intermodal transportation area;

(h) "private enterprise" means a private person or entity that has entered into a contract with a governmental unit to design, finance, construct or operate a qualified project that is within the jurisdiction of such public authority;

(i) "project" means the acquisition, construction, improvement, repair, rehabilitation, maintenance or extension of transportation facilities;

(j) "project costs" means all costs or expenses which are necessary or incident to a qualified project and which are directly attributable thereto, including, but not limited to, land acquisition;

(k) "qualified borrower" means any governmental unit or private enterprise which is authorized to construct, operate or own a qualified project;

(l) "qualified project" means any public or private intermodal transportation project, including, without limitation, the construction, reconstruction, resurfacing, restoration, rehabilitation or replacement of public or private intermodal transportation projects within the state, that is determined by the secretary to be of statewide as well as local importance and by the city or county in which the qualified project is located to be of local importance;

(m) “revenues” means when used with respect to the department, any receipts, fees, revenues or other payments received or to be received by the department under sections 1 through 7, and amendments thereto; and

(n) “secretary” means the secretary of the department of transportation.

Sec. 3. (a) The secretary shall administer the provisions of sections 1 through 7, and amendments thereto, and shall be responsible for the administration and management of the fund, and shall have the power to enter into agreements and contracts and to transfer money between the state highway fund and the fund as required to effect the purposes of sections 1 through 7, and amendments thereto.

(b) The secretary shall adopt rules and regulations, to carry out the purposes and provisions of sections 1 through 7, and amendments thereto.

Sec. 4. (a) There is hereby established in the state treasury a fund to be known as the Kansas intermodal transportation revolving fund which shall consist of the following:

(1) Amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(2) the proceeds, if any, from the sale of bonds issued pursuant to section 5, and amendments thereto, for the purposes of the fund to the extent provided in any agreement entered into between the secretary and the Kansas development finance authority;

(3) amounts of repayments made by qualified borrowers of loans received under sections 1 through 7, and amendments thereto, together with payments of interest thereon, in accordance with agreements entered into between such qualified borrowers and the secretary;

(4) amounts earned on moneys in the fund;

(5) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund;

(6) amounts transferred by order of the secretary from the state highway fund; and

(7) any other amounts as may be made available for purposes of the fund.

(b) Subject to the provisions of sections 1 through 7, and amendments thereto, expenditures from the fund shall be made for the following purposes:

(1) For the payment of the principal, including sinking fund payments of and premium, if any, and interest on bonds issued pursuant to sections 1 through 7, and amendments thereto;

(2) for providing financial assistance to qualified borrowers to finance qualified projects;

(3) for the maintenance of, or provision for, any reserves, additional security, insurance or other form of credit enhancement to secure such bonds required or provided for in any trust agreement entered into pursuant to sections 1 through 7, and amendments thereto;

(4) to guarantee, purchase insurance or provide other credit enhancement for bonds of qualified borrowers issued to finance the costs of qualified projects;

(5) to provide reserves for or otherwise secure bonds issued pursuant to sections 1 through 7, and amendments thereto, and to provide insurance or other credit enhancement for such bonds;

(6) to provide reserves for, or to otherwise secure, amounts payable by qualified borrowers on loans made by and leases with the department in the event of default by a particular qualified borrower or, on a parity basis, by any qualified borrower;

(7) to provide a subsidy for, or to otherwise assist, qualified borrowers in the payment of debt service costs on loans made by the department hereunder;

(8) for administrative costs of the fund or for any of the foregoing;

(9) the transfer of money by order of the secretary to the state highway fund; and

(10) the transfer of money by order of the secretary to the state general fund.

Sec. 5. (a) The activities of the department in administering and performing the powers, duties and functions prescribed by the provisions of sections 1 through 7, and amendments thereto, are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of issuance of bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto.

(b) The debt service for any bonds issued pursuant to this section shall be paid from revenues, including loan repayments received from qualified borrowers under agreements entered into pursuant to sections 1 through 7, and amendments thereto, or from any other amounts available in the Kansas intermodal transportation revolving fund pursuant to section 4, and amendments thereto, including appropriations of moneys from the state general fund.

(c) Neither the state nor the department shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the department for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the Kansas constitution.

(d) No governmental unit is authorized to pledge its full faith and credit or its taxing power for the purpose of repayment of any loan under this act.

Sec. 6. (a) Qualified borrowers which desire assistance in the form of a loan, credit enhancement or grant under sections 1 through 7, and amendments thereto, shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any qualified borrower for payment of all or a part of project costs. All moneys received by the secretary pursuant to such agreements shall be deposited in the Kansas intermodal transportation revolving fund.

(c) The secretary shall provide any governmental unit, upon its request, with technical advice and assistance regarding a project or an application for assistance. The secretary may assess reasonable fees for providing such assistance.

(d) Any governmental unit may enter into agreements with the secretary and may accept assistance as provided in this section when so authorized by its governing body.

Sec. 7. (a) Upon the failure of a governmental unit to meet the repayment terms and conditions of an agreement, the secretary may order the state treasurer to pay to the fund such portion of the governmental unit's share of the special city and county highway fund as may be necessary to meet the terms of the agreement. This subsection shall not apply if the source of repayment of a loan with a governmental unit, as identified in the agreement, is not received by such governmental unit prior to the loan repayment date.

(b) Any loans received by a governmental unit under the provisions of sections 1 through 7, and amendments thereto, shall be construed to be bonds for the purposes of K.S.A. 10-1116, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the governmental unit.

Sec. 8. 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 through 13 and inserting the following:  
“AN ACT concerning transportation; relating to intermodal transportation projects, and providing for the financing thereof.”;

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

DWAYNE UMBARGER  
BOB MARSHALL  
KELLY KULTALA  
*Conferees on part of Senate*

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

On motion of Rep. Hayzlett, the conference committee report on **HB 2131** was adopted.  
On roll call, the vote was: Yeas 118; Nays 6; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Do-

nohoe, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Brookens, Faber, D. Gatewood, Merrick, Peck, Winn.

Present but not voting: None.

Absent or not voting: Seiwert.

#### EXPLANATION OF VOTE

MR. SPEAKER: Do we really want to issue and guarantee bonds on intermodal transportation projects when the unit of government cannot afford it or cannot gain the bonding authority to perform the project? If we do, should it be automatic funding without review as to the wisdom of the project? While the bill seems a good thing at first blush, on further review, I believe this is ill-advised. I vote no on **HB 2131**.—J. ROBERT BROOKENS

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2134**, 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, following line 14, by inserting the following:

“New Section 1. (a) On and after January 1, 2010, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one support Kansas arts license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas arts commission, created under K.S.A. 74-5202, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment to such commission derived from this section shall be credited to the Kansas arts commission special gifts fund and, shall be used in accordance with the provisions of K.S.A. 74-5204, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the commission for the use of such logo. Upon annual application and payment to the commission in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the commission shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(c) Any applicant for a support Kansas arts license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the support Kansas arts license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or support Kansas arts license plate issued under this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.



8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual logo use authorization statement provided for in subsection (b). If such logo use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the support Kansas arts license plate to the county treasurer of such person's residence.

(f) The Kansas arts commission shall:

(1) Pay the initial cost of silk-screening for such support Kansas arts license plates; and  
(2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas arts commission for information concerning the application process or the status of their license plate application.

(g) The Kansas arts commission, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

Sec. 2. K.S.A. 2008 Supp. 8-132 is hereby amended to read as follows: 8-132. (a) Subject to the provisions of this section and K.S.A. 8-1,125, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations, except that the owner of a motor vehicle currently registered may continue to display the license plate currently being issued and displayed for a period not to exceed three registration years from the date of the expiration of the extended term. The division shall furnish one decal for each such license plate in accordance with the provisions of this subsection.

(c) Two personalized license plates may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's or lessee's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and, at the option of the owner or lessee, the other license plate may be displayed on the front of the vehicle, except that no registration decal shall be issued pursuant to K.S.A. 8-134, and amendments thereto, for any such license plate displayed on the front of such vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. The \$40 fee shall be paid only once during the registration period for which such license plates were

issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall design distinctive, personalized license plates to be issued which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle ~~of the same type registered in the same county~~, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued ~~in the same county throughout the state~~, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

Sec. 3. K.S.A. 8-160 is hereby amended to read as follows: 8-160. As used in this act, the term "disabled veteran" means a person who has served in the armed forces of the United States and who is entitled to compensation for a ~~one hundred percent (100%) disability under service-connected disability of at least 50% and the laws administered by the veterans administration~~ or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree.;

And by renumbering remaining sections accordingly;

Also on page 1, in line 29, by striking "or 8-1,158" and inserting ", 8-1,158 or section 1"; in line 35, by striking all following "received"; by striking all in lines 36 through 38; in line 39, by striking all preceding the period and inserting "not less than 1,000 orders for such plate, including payment of the personalized license plate fee required under subsection (a). Upon certification by the director of vehicles to the director of accounts and reports that not less than 1,000 paid orders for such plate have been received, the director of accounts and reports shall transfer \$40,000 from the state highway fund to the distinctive license plate fund";

On page 2, by striking all in line 30 and inserting the following:

"Sec. 5. K.S.A. 8-160 and K.S.A. 2008 Supp. 8-132 and 8-1,141 are hereby repealed.;"

In the title, in line 10, by striking "distinctive"; in line 11, following "amending" by inserting "K.S.A. 8-160 and"; also in line 11, following "Supp." by inserting "8-132 and"; in line 12, by striking "section" and inserting "sections";

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

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

*Conferees on part of Senate*

GARY K. HAYZLETT

JENE VICKREY

MARGARET LONG

*Conferees on part of House*

On motion of Rep. Hayzlett to adopt the conference committee report on **HB 2134**, Rep. Worley offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion did not prevail.

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

On roll call, the vote was: Yeas 86; Nays 38; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Benlon, Bethell, Brookens, A. Brown, T. Brown, Brunk, Carlson, Colloton, Crow, Crum, Davis, Donohoe, Faber, Feuerborn, Finney, Fund, Furtado, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henderson, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Johnson, Kerschen, Kiegerl, Kinzer, Kleeb, Landwehr, Light, Long, Lukert, Mah, Maloney, McLeland, Menghini, Morrison, Myers, Navinsky, Neighbor, Neufeld, O'Neal, Olson, Palmer, Patton, Pauls, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Svaty, Swanson, Tafanelli, Talia, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, B. Wolf, Yoder.

Nays: Bowers, Burgess, Burroughs, Carlin, Craft, DeGraaf, Dillmore, Flaharty, Frownfelter, Garcia, Hawk, Hill, Huntington, Kelley, King, Knox, Kuether, Lane, Loganbill, Mast, McCray-Miller, Merrick, Moxley, O'Brien, Otto, Peck, Peterson, Quigley, Rardin, Ruiz, Sawyer, Sloan, Spalding, Swenson, Tietze, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Seiwert.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Neufeld, the House concurred in Senate amendments to **HB 2308**, An act concerning the personal and family protection act; amending K.S.A. 2008 Supp. 75-7c03, 75-7c04 and 75-7c05 and repealing the existing sections.

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

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

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Seiwert.

#### INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, Rep. Huntington moved, pursuant to House Rule 2303, that the House reconsider its action in not adopting the conference committee report on **SB 171** to agree to disagree. The motion prevailed (see previous action, morning session).

On motion of Rep. Huebert, the conference committee report on **SB 171** to agree to disagree was adopted.

Speaker O'Neal thereupon appointed Reps. Huebert, Schwab and Sawyer as second conferees on the part of the House.

**REPORTS OF STANDING COMMITTEES**

Committee on **Agriculture and Natural Resources** recommends **SB 184** be passed.

**READING AND CORRECTION OF THE JOURNAL**

In the Journal, on page 416, in the explanation of vote by Rep. Flaharty and others, the beginning of the explanation should read: "It is not illegal to be poor."

On motion of Rep. Merrick, the House adjourned until 9:00 a.m., Thursday, April 2, 2009.

SUSAN W. KANNARR, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

