

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 5, 2010—10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
Thank You for the third beatitude: Blessed are the meek for they will inherit
the earth.

In the English language, meek
Is usually described as someone weak.
But in the New Testament language, meek
Means almost anything but weak!

Like wild horses the meek
Were out of control.
But retaining their strength
Became God-controlled.

The meek do get angry,
But stay in control,
Confessing their weakness
They are spiritually bold!

The reward that they earn
Of immeasurable worth
Beyond imagination
They inherit the earth!

I thank you again, Lord, for this third beatitude, and pray in the Name of Jesus
Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was referred to Committee as indicated:
Committee of the Whole: **SCR 1631**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kultala, Steineger and Haley introduced the following Senate resolution, which
was read:

SENATE RESOLUTION No. 1876—

A RESOLUTION congratulating the Kansas City Kansas Community College Debate and
Forensics Team for winning the Phi Rho Pi Community College National Championship.

WHEREAS, The Kansas City Kansas Community College Debate and Forensics Team

won a record seventh consecutive title in Team Policy Debate at the Phi Rho Pi National Tournament in New Orleans in April; and

WHEREAS, In addition, the team won its sixth consecutive title in the Lincoln-Douglas policy debate at the tournament. The team completely dominated this debate. Students are not allowed to compete against their own team, so when each duo of team members defeated their opponents, all six of the KCKCC team members were awarded gold medals. The team also won the Top Debate Program Sweepstakes Award and Top Overall Program Sweepstakes Award; and

WHEREAS, The team also won the national title in Poetry Interpretation and finished second in Program of Oral Interpretation. By the end of the tournament, the KCKCC team had accumulated 102 points, almost double the points scored by the second place finisher; and

WHEREAS, In addition, the team of Corey Lande and Nick Novak received the Bell-Scroggins Award, which is an award given to the best team in the National Tournament, as voted by their competitors; and

WHEREAS, Individual debaters in the tournament were: Kristyn Russell of Lansing, Kansas; Aaron Thomas of Kansas City, Missouri; Blake Burge of Leavenworth, Kansas; Dennis Sudac of Kansas City, Kansas; Marquis Bell-Ard of Oak Park, Illinois; Katelyn Lawson of Leavenworth, Kansas; Nick Novak of Lansing, Kansas and Corey Lande of Belton, Missouri. Individual members of the forensics team were: Michael Kelley of Olathe, Kansas; Stephanie Henderson of Independence, Missouri and Tiara Tyson of Blue Springs, Missouri. Coaches of the national championship team were: Head coach Darren Elliott and assistant coaches Amy Arellano, Clay Crockett, John Bretthauer, Adrian Self, Ashley-Michelle Papon and Ashley Cook; and

WHEREAS, The entire KCKCC Debate and Forensics Team brings great credit upon themselves and their families, coaches and college and are deserving of being applauded for the hard work and effort required to excel in this activity: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Kansas City Kansas Community College Debate and Forensics Team for their outstanding season and for winning the Phi Rho Pi National Tournament, and extend our best wishes for their continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to send 29 enrolled copies of this resolution to Senator Kultala.

On emergency motion of Senator Kultala **SR 1876** was adopted unanimously.

Senator Kultala congratulated the Kansas City Kansas Community College Debate and Forensics Team for winning the Phi Rho Pi community college national championship. The Kansas City Kansas Community College Debate and Forensics Team were introduced as follows: Aaron Thomas, Kristyn Russell, Blake Burge, Dennis Sudac, Nick Novak, Corey Lande, Katelyn Lawson, Marquis Bell-Ard, Tiara Tyson, Stephanie Henderson and Michael Kelley. Also introduced were College President Dr. Thomas Burke, Head Coach Darren Elliott and Assistant Coach Amy Arellano.

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

SENATE RESOLUTION No. 1877—

A RESOLUTION commending Dale Cushinberry for his dedicated and distinguished career in public education and his active involvement in the Topeka community and congratulating him on his retirement as principal of Highland Park High School.

WHEREAS, Dale Cushinberry grew up in Topeka, attended the Topeka public schools and graduated from Highland Park High School in 1965. He received a Bachelor's degree in elementary and secondary education from the Kansas State Teachers College in 1970. He also received a Master's degree in school counseling and psychotherapy; and

WHEREAS, Dale began his distinguished career in public education in 1970 as a teacher at Parkdale Elementary School in Topeka. He was a school counselor from 1973 to 1979 and acting principal at Highland Park Junior High in 1979 and 1980. He then became an assistant principal at Highland Park High School from 1980 to 1982, a position he left to become an assistant professor and administrator at Washburn University. From 1989 to

1994, he served as principal at Whitson Elementary School. In 1994, he became principal of Highland Park High School, a position he has held until the current school year; and

WHEREAS, Dale has received numerous awards for his service to public education, including the 1997 Distinguished Kansan in the field of education from the Topeka Capital-Journal. In 1998, he received the Educator Excellence Award by the Brown Foundation. In 2004, he was the recipient of the Whitney Young National Award for Outstanding Service to Youth. He received the Topeka Public School Distinguished Staff Administrative Award in 2007 and in 2010 he was presented with the Onan C. Burnett Award from the Kappa Alpha Psi Fraternity; and

WHEREAS, Dale has been actively involved in the Topeka community, serving on numerous boards as director, including the Topeka Youth Project, Kansas Childrens' Service League, the Capper Foundation, Menninger Lecture Series, Battered Women's Task Force, Living the Dream and USD 501 Partners in Education; and

WHEREAS, Dale has also served on the Emporia State University Board of Trustees, Washburn University President's Advisory Board, Kansas Supreme Court Nomination Commission and Kansas At-Risk Council; and

WHEREAS, As principal of Highland Park High School, Dale Cushinberry has been an outstanding role model and leader for the school's administrators, teachers and staff, as well as the students. He coined the phrase "It's Great to be a Scot," which is a source of great pride and is prominently displayed on signs and banners throughout the school. He also coined the phrase "You Can Get There From Here," which reminds students of the real life examples of the careers and accomplishments of people throughout the United States who are graduates of Highland Park High School; and

WHEREAS, The entire Highland Park community has a deep respect, love and affection for the man known to them simply as "Cush"; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we express our appreciation to Dale Cushinberry for his dedicated and distinguished career in public education and we congratulate him on his retirement as principal of his beloved Highland Park High School; and

Be it further resolved: That the Secretary of the Senate be directed to send five enrolled copies of this resolution to Highland Park High School, c/o Dale Cushinberry, 2424 SE California Ave., Topeka, KS 66605.

On emergency motion of Senator Hensley **SR 1877** was adopted unanimously.

Senator Hensley introduced and congratulated Dale E. Cushinberry upon his retirement as principal of Highland Park High School. Also introduced were Anita Cushinberry, Superintendent Dr. Kevin Singer, Ron Harbaugh, Larry Robbins, Steve Burkholder, Mrs. Janel Johnson and Hal Gardner.

ACTION ON VETO MESSAGE

President Morris announced the time had arrived for reconsideration of **S Sub for HB 2115**.

Senator Colyer moved the Senate reconsider the veto of **S Sub for HB 2115** and the bill be passed notwithstanding the Governor's veto.

S Sub for HB 2115, An act concerning abortion; amending K.S.A. 65-445, 65-6701, 65-6703 and K.S.A. 2009 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Taddiken, Umbarger, Wagle.

Nays: Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Teichman, Vratil.

A two-thirds constitutional majority having not voted in favor of overriding the Governor's veto, the motion did not prevail and the veto was sustained.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "NO" on the motion to over-ride the Governor's veto on **S Sub for HB 2115**.

The language was put in a utilities bill and sent as a conference committee report to the Senate allowing no opportunity for amendments. The bill makes confusing changes to reporting requirements. We ask a physician to report if a fetus was determined to be nonviable without defining that term. We ask for the medical reasons for determination of gestational age when we may want to know what methods a physician used to make the determination, and with a definition of gestational age that limits the physician's response. The lack of clarity in reporting requirements is especially troubling because the statutes are being changed to require the Board of Healing Arts to revoke a licensee's license for a misdemeanor under K.S.A. 65-6703. There are other concerns, but perhaps the most egregious is the repeal of K.S.A. 65-6713 that established civil immunity for physicians who are fully compliant with the informed consent process included in the Women's Right to Know Act and according to standard medical practice. Women's health care should not include obstacles for the physicians who are providing that health care. — MARCI FRANCISCO

Senators Kelly and Teichman request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **HB 2115**.

MR. PRESIDENT: This is an issue that is very difficult for everyone in this room. For the last 2 years, this bill has come to the Senate on the last day of the regular session with no opportunity for input on changes.

I want to see proper regulations for reporting and I want to see compassion for a woman who is facing the most difficult, horrific time of her life and her unborn child.

I believe we can pass a better bill if we get all parties to the table to talk about reporting regulations.

I am sending a letter to the two parties offering to work on a compromise bill. — JEAN SCHODORF

Senators Francisco, Huntington, Kelly, Teichman and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Schodorf on **HB 2115**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **S Sub for HB 2360; HB 2595; S Sub for S Sub for HB 2650**.

COMMITTEE OF THE WHOLE

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

The morning session recommended.

SCR 1631 be amended by Senator Umbarger on page 1, in line 17, by striking "1603" and inserting "1616"; in line 32, by striking "2007" and inserting "2008"; in line 33, by striking "1603" and inserting "1616";

In the title, in line 10, by striking "2007" and inserting "2008"; also in line 10, by striking "1603" and inserting "1616" and the resolution be adopted as amended.

HB 2595 be amended by adoption of the committee amendments and further amended by

Senator Schodorf on page 1, in line 21, before the period, by inserting "and no part of which is located in Johnson county, Sedgwick county, Shawnee county or Wyandotte county" and the bill be passed as further amended.

A motion by Senator Brownlee to amend **HB 2595** failed and the following amendment was rejected: page 1, after line 16, by inserting the following:

"New Section 1. (a) The KPERS weighting of each district shall be determined by the state board as follows:

(1) Determine the amount of money disbursed to the school district under K.S.A. 2009 Supp. 74-4939a, and amendments thereto; and

(2) divide the amount determined under (1) by base state aid per pupil. The quotient is the KPERs weighting of the district.

(b) The provisions of this section shall be part of and supplemental to the school district finance and quality performance act.

Sec. 2. K.S.A. 2009 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance at the non-virtual school bears to full-time attendance. Except as provided by this section for preschool-aged exceptional children and virtual school pupils, a pupil enrolled in a district and attending special education and related services, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services provided for by the district and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance at the non-virtual school bears to full-time attendance. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. Except as provided in section 1 of chapter 76 of the 2009 Session Laws of the state of Kansas, and amendments thereto, a pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 409, Atchison, Kansas, but housed, maintained and receiving educational services at the youth residential center located on the grounds of the former Atchison juvenile correctional facility, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution or a psychiatric residential treatment facility shall not be counted.

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

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

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2009 Supp. 72-6448, and amendments thereto.

(f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, high density at-risk pupil weighting, if any, medium density at-risk pupil weighting, if any, nonproficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, *KPERS weighting* and transportation weighting to enrollment; or (2) adjusted enrollment as determined under K.S.A. 2009 Supp. 72-6457 or 72-6458, and amendments thereto.

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

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

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2009 Supp. 72-6442b, and amendments thereto.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

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

(l) "Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

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

(n) "Juvenile detention facility" has the meaning ascribed thereto by 72-8187, and amendments thereto.

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

(p) "Virtual school" means any school or educational program that: (1) Is offered for credit; (2) uses distance-learning technologies which predominately use internet-based methods to deliver instruction; (3) involves instruction that occurs asynchronously with the teacher and pupil in separate locations; (4) requires the pupil to make academic progress toward the next grade level and matriculation from kindergarten through high school graduation; (5) requires the pupil to demonstrate competence in subject matter for each class or subject in which the pupil is enrolled as part of the virtual school; and (6) requires age-appropriate pupils to complete state assessment tests.

(q) "Declining enrollment weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) "High enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 2009 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) "High density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6455, and amendments thereto, apply.

(t) "Nonproficient pupil" means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) "Nonproficient pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2009 Supp. 72-6454, and amendments thereto.

(v) "Psychiatric residential treatment facility" has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(w) "Medium density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6459, and amendments thereto, apply.

(x) "*KPERS weighting*" means an addend component assigned to enrollment of districts on the basis of costs attributable to school districts' employer contributions to the Kansas public employees retirement system.

Sec. 3. K.S.A. 2009 Supp. 72-6433d is hereby amended to read as follows: 72-6433d. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is \$4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.

(e) *The local option budget of a school district adopting a local option budget under this section shall be determined as follows:*

(1) *Determine the adjusted enrollment of the school district, excluding special education weighting;*

(2) *multiply the number determined under (1) by \$4,433;*

(3) *add the amount of state aid for special education or related services received by the school district in school year 2008-2009 to the product obtained under (2);*

(4) *add the amount disbursed to the school district in the current school year under K.S.A. 2009 Supp. 74-4939a, and amendments thereto; and*

(5) *multiply the sum obtained under (4) by the percentage of the state financial aid stated in the local option budget resolution adopted by the board of education. The product is the local option budget of the school district.*

(f) The provisions of this section shall expire on June 30, 2012.

Sec. 4. K.S.A. 2009 Supp. 74-4939a is hereby amended to read as follows: 74-4939a. On and after the effective date of this act for each fiscal year commencing with fiscal year 2005, notwithstanding the provisions of K.S.A. 74-4939 and amendments thereto or any other statute, all moneys appropriated for the department of education from the state general fund commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by appropriation act of the legislature, in the KPERS employer contributions account and all moneys appropriated for the department of education from the state general fund or any special revenue fund for each fiscal year commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by any such appropriation act in that account or any other account for payment of employer contributions for school districts, shall be distributed by the department of education to school districts in accordance with this section. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, the department of education shall disburse to each school district that is an eligible employer as specified in subsection (1) of K.S.A. 74-4931 and amendments thereto an amount certified by the board of trustees of the Kansas public employees retirement system which is equal to the participating employer's obligation of such school district to the system in accordance with policies and procedures which are hereby authorized and directed to be adopted by the department of education for the purposes of this section and in accordance with any requirements prescribed by the board of trustees of the Kansas public employees retirement system. Upon receipt of each such disbursement of moneys, the school district shall deposit the entire amount thereof into ~~a~~ *the general fund of the school district and transfer an equal amount to the special retirement contributions fund of the school district, which shall be established by the school district in accordance with such policies and procedures and which shall be used for the sole purpose of receiving such disbursements from the department of education and making the remittances to the system in accordance with this section and such policies and procedures. Upon receipt of each such disbursement of moneys from the department of education, the school district shall remit, in accordance with the provisions of such policies*

and procedures and in the manner and on the date or dates prescribed by the board of trustees of the Kansas public employees retirement system, an equal amount to the Kansas public employees retirement system from the special retirement contributions fund of the school district to satisfy such school district's obligation as a participating employer. Notwithstanding the provisions of K.S.A. 74-4939 and amendments thereto, each school district that is an eligible employer as specified in subsection (1) of K.S.A. 74-4931 and amendments thereto shall show within the budget of such school district all amounts received from disbursements into the special retirement contributions fund of such school district. Notwithstanding the provisions of any other statute, no official action of the school board of such school district shall be required to approve a remittance to the system in accordance with this section and such policies and procedures. All remittances of moneys to the system by a school district in accordance with this subsection and such policies and procedures shall be deemed to be expenditures of the school district.”;

By renumbering sections accordingly;

On page 2, by striking all in line 43 and inserting the following:

“Sec. 6. K.S.A. 2009 Supp. 72-1046b, 72-6407, 72-6433d and 74-4939a are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 12, after the semicolon, by inserting “relating to school finance; amending K.S.A. 2009 Supp. 72-1046b, 72-6407, 72-6433d and 74-4939a and repealing the existing sections.”

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 16, Nays 22, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Colyer, Donovan, Francisco, Holland, Huntington, Lynn, Morris, Owens, Petersen, Pilcher-Cook, Schodorf, Vratil, Wagle.

Nays: Apple, Barnett, Brungardt, Faust-Goudeau, Haley, Hensley, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Ostmeyer, Pyle, Reitz, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger.

Present and Passing: Emler, Steineger.

The motion failed and the amendment was rejected.

A motion by Senator Masterson to amend **HB 2595** failed and following amendment was rejected:

I move to amend **HB 2595**, as amended by Senate Committee, on page 2, by striking all in line 43 and inserting the following:

“New Sec. 2. (a) On July 1, 2010, or as soon as moneys are available therefor, the director of accounts and reports shall transfer from the federal K-12 fiscal stabilization fund to the at-risk pupil grant fund an amount equal to \$47,500,000.

(b) On July 1, 2010, or as soon as moneys are available therefor, the director of accounts and reports shall transfer from the federal K-12 fiscal stabilization fund to the school district funding stabilization grant fund an amount equal to \$5,000,000.

New Sec. 3. (a) There is hereby created in the state treasury the at-risk pupil grant fund which shall be administered by the state board of education.

(b) All expenditures from the at-risk pupil grant fund shall be in accordance with appropriations acts and shall be expended for the purpose of funding grants awarded pursuant to this section.

(c) In school year 2010-2011, each school district shall be paid a special at-risk pupil assistance grant in an amount determined by the state board as provided by this subsection. The state board shall:

(1) Determine the statewide full-time equivalent enrollment of at-risk pupils in grades three and below in school year 2010-2011;

(2) determine the statewide full-time equivalent enrollment of pupils in grades four through 12 who scored below proficiency on the state assessments for mathematics or reading in school year 2009-2010;

(3) divide the amount of money credited to the at-risk pupil grant fund pursuant to section 2 by the sum of the numbers determined under (1) and (2);

(4) determine the full-time equivalent enrollment of at-risk pupils in grades three and below in the school district in school year 2010-2011;

(5) determine the full-time equivalent enrollment of pupils in grades four through 12 who scored below proficiency on the state assessments for mathematics or reading in the school district in school year 2009-2010; and

(6) multiply the quotient obtained under (3) by the sum of the numbers determined under (4) and (5). The product is the amount of the special at-risk pupil assistance grant of the school district.

(d) All moneys received by a school district under subsection (c) shall be deposited in the general fund of the district and shall be expended for the purpose of providing at-risk assistance or programs for at-risk pupils in grades three and below and pupils in grades four through 12 who scored below proficiency on the state assessments for mathematics or reading in school year 2009-2010.

(e) This section shall be part of and supplemental to the school district finance and quality performance act.

New Sec. 4. (a) As used in this section:

(1) "School district" means any school district which does not have unencumbered moneys in the funds of the school district sufficient in an aggregate amount to allow the district to expend the same amount from the general fund of the school district in school year 2010-2011 as the school expended in school year 2009-2010.

(2) "Fund" means any of the following funds of a school district: At-risk education fund, preschool-aged at-risk education fund, vocational education fund, contingency reserve fund, summer program fund, bilingual education fund and professional development fund.

(b) There is hereby created in the state treasury the school district funding stabilization grant fund which shall be administered by the state board of education.

(c) All expenditures from the at-risk pupil grant fund shall be in accordance with appropriations acts and shall be expended for the purpose of funding grants awarded under this section.

(d) For school districts as defined by subsection (a), the state board shall:

(1) Determine the full-time equivalent enrollment of pupils in grades three and below in school year 2010-2011;

(2) determine the full-time equivalent enrollment of pupils in grades four through 12 who scored below proficiency on the state assessments for mathematics or reading in school year 2009-2010;

(3) divide the amount of money credited to the school district funding stabilization grant fund pursuant to this section by the sum of the numbers determined under (1) and (2);

(4) determine the full-time equivalent enrollment of at-risk pupils in grades three and below in the school district in school year 2010-2011;

(5) determine the full-time equivalent enrollment of pupils in grades four through 12 who scored below proficiency on the state assessments for mathematics or reading in the school district in school year 2009-2010; and

(6) multiply the quotient obtained under (3) by the sum of the numbers determined under (4) and (5). The product is the amount of the school district funding stabilization assistance grant of the school district.

(e) All moneys received by a school district under subsection (d) shall be deposited in the general fund of the district and shall be expended for the purpose of providing at-risk assistance or programs for at-risk pupils in grades three and below and pupils in grades four through 12 who scored below proficiency on the state assessments for mathematics or reading in school year 2009-2010.

(f) This section shall be part of and supplemental to the school district finance and quality performance act.

New Sec. 5. In addition to the other purposes for which expenditures may be made by the department of education or any other state agency from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2011 for the department of education, or any other state agency involved in processing the state aid payments to school districts referred to in this subsection, as authorized by any appropriation act of the 2010 regular session of the legislature, notwithstanding the provisions of any other

statute, expenditures shall be made by the department of education, and each other state agency involved in processing the state aid payments to school districts referred to in this subsection, shall make expenditures during fiscal year 2011 to provide for the state to make all aid payments to school districts, including payments for special education or related services, KPERS employer contributions, general state aid, supplemental general state aid, capital outlay state aid, capital improvement state aid, or any other state aid payable to school districts, on the date on which such payments are regularly scheduled for payment during the first 11 months of fiscal year 2011.

New Sec. 6. (a) The KPERS weighting of each school district shall be determined as follows:

(1) Determine the amount of moneys distributed to each school district under K.S.A. 2009 Supp. 74-4939a, and amendments thereto; and

(2) divide the amount determined under (1) by base state aid per pupil. The product is the KPERS weighting of the district.

(b) The provisions of this section shall expire on June 30, 2011.

Sec. 7. K.S.A. 2009 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance at the non-virtual school bears to full-time attendance. Except as provided by this section for preschool-aged exceptional children and virtual school pupils, a pupil enrolled in a district and attending special education and related services, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services provided for by the district and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance at the non-virtual school bears to full-time attendance. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddell Boys Ranch, shall be counted as two pupils. Except as provided in section 1 of chapter 76 of the 2009 Session Laws of the state of Kansas, and amendments thereto, a pupil in the custody of the secretary of social and rehabilitation services or in the custody

of the commissioner of juvenile justice and enrolled in unified school district No. 409, Atchison, Kansas, but housed, maintained and receiving educational services at the youth residential center located on the grounds of the former Atchison juvenile correctional facility, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution or a psychiatric residential treatment facility shall not be counted.

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

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

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2009 Supp. 72-6448, and amendments thereto.

(f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, high density at-risk pupil weighting, if any, medium density at-risk pupil weighting, if any, nonproficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, *KPERS weighting* and transportation weighting to enrollment; or (2) adjusted enrollment as determined under K.S.A. 2009 Supp. 72-6457 or 72-6458, and amendments thereto.

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

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

(i) “Low enrollment weighting” means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2009 Supp. 72-6442b, and amendments thereto.

(j) “School facilities weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

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

(l) “Cost of living weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

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

(n) “Juvenile detention facility” has the meaning ascribed thereto by 72-8187, and amendments thereto.

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

(p) “Virtual school” means any school or educational program that: (1) Is offered for credit; (2) uses distance-learning technologies which predominately use internet-based methods to deliver instruction; (3) involves instruction that occurs asynchronously with the teacher and pupil in separate locations; (4) requires the pupil to make academic progress toward the next grade level and matriculation from kindergarten through high school graduation; (5) requires the pupil to demonstrate competence in subject matter for each class or subject in which the pupil is enrolled as part of the virtual school; and (6) requires age-appropriate pupils to complete state assessment tests.

(q) “Declining enrollment weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) “High enrollment weighting” means an addend component assigned to enrollment of districts pursuant to K.S.A. 2009 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) “High density at-risk pupil weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6455, and amendments thereto, apply.

(t) “Nonproficient pupil” means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) “Nonproficient pupil weighting” means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2009 Supp. 72-6454, and amendments thereto.

(v) “Psychiatric residential treatment facility” has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(w) “Medium density at-risk pupil weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2009 Supp. 72-6459, and amendments thereto, apply.

(x) “*KPERS weighting*” means an addend component assigned to enrollment of districts on the basis of costs attributable to school districts’ employer contributions to the Kansas public employees retirement system.

Sec. 8. K.S.A. 2009 Supp. 72-6410 is hereby amended to read as follows: 72-6410. (a) “State financial aid” means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) (1) “Base state aid per pupil” means an amount of state financial aid per pupil. Subject to the other provisions of this subsection, the amount of base state aid per pupil is ~~\$4,433 in school year 2008-2009 and \$4,492 in school year 2009-2010~~ \$4,100 in school year 2010-2011 and \$4,492 in school year 2011-2012 and each school year thereafter.

(2) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) “Local effort” means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto, and an amount equal to 70% of the federal impact aid of the district.

(d) “Federal impact aid” means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 9. K.S.A. 72-6411 is hereby amended to read as follows: 72-6411. (a) The transportation weighting of each district shall be determined by the state board as follows:

(1) Determine the total expenditures of the district during the preceding school year from all funds for transporting pupils of public and nonpublic schools on regular school routes;

(2) divide the amount determined under (1) by the total number of pupils who were included in the enrollment of the district in the preceding school year and for whom transportation was made available by the district;

(3) multiply the quotient obtained under (2) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing less than 2½ miles by the usually traveled road from the school building they attended, and for whom transportation was made available by the district;

(4) multiply the product obtained under (3) by 50%;

(5) subtract the product obtained under (4) from the amount determined under (1);

(6) divide the remainder obtained under (5) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing 2½ miles or more by the usually traveled road from the school building they attended and for whom transportation was made available by the district. The quotient is the per-pupil cost of transportation;

(7) on a density-cost graph plot the per-pupil cost of transportation for each district;

(8) construct a curve of best fit for the points so plotted;

(9) locate the index of density for the district on the base line of the density-cost graph and from the point on the curve of best fit directly above this point of index of density follow a line parallel to the base line to the point of intersection with the vertical line, which point is the formula per-pupil cost of transportation of the district;

(10) divide the formula per-pupil cost of transportation of the district by base state aid per pupil;

(11) (A) multiply the quotient obtained under (10) by the number of pupils who are included in the enrollment of the district, are residing 2 1/2 miles or more by the usually traveled road to the school building they attend, and for whom transportation is being made available by, and at the expense of, the district. *Except as provided in paragraph (B), the product is the transportation weighting of the district.*

(B) In school year 2010-2011, the state board shall multiply the product obtained under subsection (11) by .83. The product is the transportation weighting of the district.

(b) For the purpose of providing accurate and reliable data on pupil transportation, the state board is authorized to adopt rules and regulations prescribing procedures which districts shall follow in reporting pertinent information relative thereto, including uniform reporting of expenditures for transportation.

(c) "Index of density" means the number of pupils who are included in the enrollment of a district in the current school year, are residing 2½ miles or more by the usually traveled road from the school building they attend, and for whom transportation is being made available on regular school routes by the district, divided by the number of square miles of territory in the district.

(d) "Density-cost graph" means a drawing having: (1) A horizontal or base line divided into equal intervals of density, beginning with zero on the left; and (2) a scale for per-pupil cost of transportation to be shown on a line perpendicular to the base line at the left end thereof, such scale to begin with zero dollars at the base line ascending by equal per-pupil cost intervals.

(e) "Curve of best fit" means the curve on a density-cost graph drawn so the sum of the distances squared from such line to each of the points plotted on the graph is the least possible.

~~(f) The provisions of this section shall take effect and be in force from and after July 1, 1992.~~

Sec. 10. K.S.A. 2009 Supp. 72-6412 is hereby amended to read as follows: 72-6412. (a) The low enrollment weighting shall be determined by the state board as provided by this section.

~~(b) For districts with enrollment of 1,637 or more in school year 2006-2007, and 1,622 or more in school year 2007-2008 and each school year thereafter 1,622 or more, the low enrollment weighting shall be 0.~~

(c) For districts with enrollment of less than 100, the low enrollment weighting shall be equal to the low enrollment weighting of a district with enrollment of 100.

(d) For districts with enrollment of less than ~~1,637~~ in school year ~~2006-2007~~ and less than ~~1,622~~ in school year ~~2007-2008~~ and each school year thereafter 1,622 and more than 99, the low enrollment weighting shall be determined by the state board as follows:

- (1) Determine the low enrollment weighting for such districts for school year 2004-2005;
- (2) multiply the low enrollment weighting of each district determined under paragraph (1) by 3,863;
- (3) add 3,863 to the product obtained under paragraph (2);
- (4) divide the product obtained under paragraph (3) by 4,107; and
- (5) subtract 1 from the product obtained under paragraph (4). *Except as provided by subsection (e)*, the difference shall be the low enrollment weighting of the district.

(e) In school year 2010-2011, the state board shall multiply the difference obtained under subsection (d)(5) by .83. The product is the low enrollment weighting of the district.

Sec. 11. K.S.A. 2009 Supp. 72-6413 is hereby amended to read as follows: 72-6413. (a) The program weighting of each district shall be determined by the state board as follows:

- (1) Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by .395;
- (2) compute full time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;
- (3) add the products obtained under (1) and (2). *Except as provided by subsection (b)*, the sum is the program weighting of the district.

(b) In school year 2010-2011, the state board shall multiply the sum obtained under subsection (a)(3) by .83. The product is the program weighting of the district.

(c) A school district may expend amounts received from the bilingual weighting to pay the cost of providing at-risk and preschool-aged at-risk education programs and services.

Sec. 12. K.S.A. 2009 Supp. 72-6414 is hereby amended to read as follows: 72-6414. (a) (1) The at-risk pupil weighting of each district shall be determined by the state board by multiplying the number of at-risk pupils included in enrollment of the district by ~~.278~~ for school year ~~2006-2007~~, by ~~.378~~ for school year ~~2007-2008~~ and by ~~.456~~ for school year ~~2008-2009~~ and each school year thereafter ~~.456~~. *Except as provided by subsection (2)*, the product is the at-risk pupil weighting of the district.

(2) In the school year 2010-2011, the state board shall multiply the product obtained under subsection (a)(1) by .83. The product is the at-risk pupil weighting of the district.

(b) Except as provided in subsection (d), of the amount a district receives from the at-risk pupil weighting, an amount produced by a pupil weighting of .01 shall be used by the district for achieving mastery of basic reading skills by completion of the third grade in accordance with standards and outcomes of mastery identified by the state board under K.S.A. 72-7534, and amendments thereto.

(c) A district shall include such information in its at-risk pupil assistance plan as the state board may require regarding the district's remediation strategies and the results thereof in achieving the third grade reading standards and outcomes of mastery identified by the state board. The reporting requirements shall include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the second grade diagnostic reading test prescribed by the state board.

(d) A district whose pupils substantially achieve the state board standards and outcomes of mastery of reading skills upon completion of third grade may be released, upon request, by the state board from the requirements of subsection (b).

(e) (1) A district may expend amounts received from the at-risk pupil weighting to pay for the cost of providing full-day kindergarten to any pupil enrolled in the district and attending full-day kindergarten whether or not such pupil is an at-risk pupil.

(2) Nothing in this subsection shall be construed as requiring school districts to provide full-day kindergarten nor as requiring any pupil to attend full-day kindergarten.

(3) As used in this subsection (e):

(A) "District" means any school district which offers both full-day and half-day kindergarten.

(B) "Cost" means that portion of the cost of providing full-day kindergarten which is not paid by the state.

(f) A school district may expend amounts received from the at-risk weighting to pay the cost of providing preschool-aged at-risk, bilingual and vocational education programs and services.

Sec. 13. K.S.A. 72-6415 is hereby amended to read as follows: 72-6415. (a) The school facilities weighting of each district shall be determined in each school year in which such weighting may be assigned to enrollment of the district as follows:

(1) Determine the number of pupils, included in enrollment of the district, who are attending a new school facility;

(2) multiply the number of pupils determined under (1) by .25. *Except as provided by subsection (b)*, the product is the school facilities weighting of the district.

~~(b) The provisions of this section shall take effect and be in force from and after July 1, 1992. In school year 2010-2011, the state board shall multiply the product obtained under subsection (a)(2) by .83. The product is the school facilities weighting of the district.~~

Sec. 14. K.S.A. 2009 Supp. 72-6433d is hereby amended to read as follows: 72-6433d. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is \$4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

~~(c) In school year 2010-2011, the board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received payment of KPERs employer contributions for the school district equal to the amount of such payment in school year 2009-2010, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.~~

~~(d) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b) any or all of subsections (a), (b) or (c).~~

~~(e) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.~~

~~(f) The provisions of this section shall expire on June 30, 2012.~~

Sec. 15. K.S.A. 2009 Supp. 72-6442b is hereby amended to read as follows: 72-6442b. The high enrollment weighting of each district with ~~1,637 or over enrollment in school year 2006-2007, 1,622 or over enrollment in school year 2007-2008~~ and each school year thereafter enrollment of 1,622 or over shall be determined by the state board as follows:

(a) Determine the schedule amount for a district with ~~1,637 enrollment in school year 2006-2007, and 1,622 enrollment in school year 2007-2008~~ and each school year thereafter enrollment of 1,622 or over as derived from the linear transition under (d) of K.S.A. 72-6412, and amendments thereto, and subtract the amount determined under (c) of K.S.A. 72-6412, and amendments thereto, from the schedule amount so determined;

(b) divide the remainder obtained under (a) by the amount determined under (c) of K.S.A. 72-6412, and amendments thereto, and multiply the quotient by the enrollment of the district in the current school year. *Except as provided by subsection (c)*, the product is the high enrollment weighting of the district.

~~(c) In school year 2010-2011, the state board shall multiply the product obtained under subsection (b) by .83. The product is the high enrollment weighting of the district.~~

Sec. 16. K.S.A. 2009 Supp. 72-6454 is hereby amended to read as follows: 72-6454. (a) The nonproficient pupil weighting of each district shall be determined by the state board as follows:

(1) Determine the number of pupils who were not eligible for free meals under the national school lunch act and who scored below proficiency or failed to meet the standards established by the state board on either the mathematics or reading state assessments in the preceding school year; and

(2) multiply the number determined under paragraph (1) by .0465. *Except as provided by subsection (b)*, the product is the nonproficient pupil weighting of the district.

(b) *In school year 2010-2011, the state board shall multiply the product obtained under subsection (a)(2) by .83. The product is the nonproficient pupil weighting of the district.*

(c) If the state board determines that as a result of the occurrence of a disaster in the school district, pupils in the school district are unable to participate in the state assessments, the nonproficient pupil weighting of the school district shall be equal to the nonproficient pupil weighting of the district in the preceding school year.

As used in this subsection, “disaster” means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, tornado, wind, storm, drought, epidemics, air contamination, blight, drought, infestation or explosion.

Sec. 17. K.S.A. 2009 Supp. 72-6455 is hereby amended to read as follows: 72-6455. (a) As used in this section, school district means any district having: (1) An enrollment of at least 50% at-risk pupils; or (2) an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile.

(b) The high density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .10. *Except as provided by subsection (d)*, the product is the high density at-risk pupil weighting of the district.

(c) *Except as provided by subsection (d)*, if a school district becomes ineligible for high density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirements of subsection (a), the high density at-risk pupil weighting of the district shall be the greater of: (1) The high density at-risk pupil weighting in the current school year; (2) the high density at-risk pupil weighting in the prior school year; or (3) the average of the high density at-risk pupil weighting in the current school year and the preceding two school years.

The provisions of this subsection shall expire on June 30, 2011.

(d) *In school year 2010-2011, the state board shall multiply the product obtained under subsection (b) or the amount obtained under subsection (c) by .83. The product is the high density at-risk pupil weighting of the district.*

Sec. 18. K.S.A. 2009 Supp. 72-6459 is hereby amended to read as follows: 72-6459. (a) As used in this section, “school district” means any district having an enrollment of at least 40% but less than 50% at-risk pupils.

(b) The medium density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .06. *Except as provided by subsection (d)*, the product is the medium density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for medium density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirement of subsection (a), the medium density at-risk pupil weighting of the district shall be the greater of: (1) The medium density at-risk pupil weighting in the current school year; (2) the medium density at-risk pupil weighting in the prior school year; or (3) the average of the medium density at-risk pupil weighting in the current school year and the preceding two school years.

The provisions of this subsection shall expire on June 30, 2011.

(d) *In school year 2010-2011, the state board shall multiply the product obtained under subsection (b) or the amount obtained under subsection (c) by .83. The product is the medium density at-risk pupil weighting of the district.*

Sec. 19. K.S.A. 2009 Supp. 74-4939a is hereby amended to read as follows: 74-4939a. On and after the effective date of this act for each fiscal year commencing with fiscal year 2005, notwithstanding the provisions of K.S.A. 74-4939 and amendments thereto or any other statute, all moneys appropriated for the department of education from the state general fund commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by appropriation act of the legislature, in the KPERS employer contributions account and all moneys appropriated for the department of education from the state general fund or any

special revenue fund for each fiscal year commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by any such appropriation act in that account or any other account for payment of employer contributions for school districts, shall be distributed by the department of education to school districts in accordance with this section. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, the department of education shall disburse to each school district that is an eligible employer as specified in subsection (1) of K.S.A. 74-4931 and amendments thereto an amount certified by the board of trustees of the Kansas public employees retirement system which is equal to the participating employer's obligation of such school district to the system in accordance with policies and procedures which are hereby authorized and directed to be adopted by the department of education for the purposes of this section and in accordance with any requirements prescribed by the board of trustees of the Kansas public employees retirement system. Upon receipt of each such disbursement of moneys, the school district shall deposit the entire amount thereof into ~~the~~ *the general fund of the school district and transfer an equal amount to the special retirement contributions fund of the school district*, which shall be established by the school district in accordance with such policies and procedures and which shall be used for the sole purpose of receiving such disbursements from the department of education and making the remittances to the system in accordance with this section and such policies and procedures. Upon receipt of each such disbursement of moneys from the department of education, the school district shall remit, in accordance with the provisions of such policies and procedures and in the manner and on the date or dates prescribed by the board of trustees of the Kansas public employees retirement system, an equal amount to the Kansas public employees retirement system from the special retirement contributions fund of the school district to satisfy such school district's obligation as a participating employer. Notwithstanding the provisions of K.S.A. 74-4939 and amendments thereto, each school district that is an eligible employer as specified in subsection (1) of K.S.A. 74-4931 and amendments thereto shall show within the budget of such school district all amounts received from disbursements into the special retirement contributions fund of such school district. Notwithstanding the provisions of any other statute, no official action of the school board of such school district shall be required to approve a remittance to the system in accordance with this section and such policies and procedures. All remittances of moneys to the system by a school district in accordance with this subsection and such policies and procedures shall be deemed to be expenditures of the school district.

Sec. 20. K.S.A. 2009 Supp. 72-6414a is hereby amended to read as follows: 72-6414a. (a) There is hereby established in every district a fund which shall be called the at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district directly attributable to providing at-risk assistance or programs, including assistance or programs provided to nonproficient pupils, shall be paid from the at-risk education fund.

(b) Any balance remaining in the at-risk education fund at the end of the budget year shall be carried forward into the at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Any unencumbered balance of moneys remaining in the at-risk education fund of a school district on June 30, 2010, may be expended by the school district for general education purposes of the school district in school year 2010-2011.

(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the at-risk program or assistance provided by the district. Such report shall include information specifying the number of at-risk pupils and nonproficient pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

(d) In order to achieve uniform reporting of the number of at-risk pupils and nonproficient pupils provided service or assistance by school districts in at-risk programs, districts shall report the number of at-risk pupils and nonproficient pupils served or assisted in the manner required by the state board.

Sec. 21. K.S.A. 2009 Supp. 72-6414b is hereby amended to read as follows: 72-6414b. (a) There is hereby established in every district a fund which shall be called the preschool-aged at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district directly attributable to providing preschool-aged at-risk assistance or programs shall be paid from the preschool-aged at-risk education fund.

(b) A school district may expend amounts received from the preschool-aged at-risk weighting to pay the cost of providing at-risk, bilingual and vocational education programs and services.

(c) Any balance remaining in the preschool-aged at-risk education fund at the end of the budget year shall be carried forward into the preschool-aged at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the preschool-aged at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Any unencumbered balance of moneys remaining in the preschool-aged at-risk education fund of a school district on June 30, 2010, may be expended by the school district for general education purposes of the school district in school year 2010-2011.

(d) Each year the board of education of each school district shall prepare and submit to the state board a report on the preschool-aged at-risk program or assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

Sec. 22. K.S.A. 2009 Supp. 72-6421 is hereby amended to read as follows: 72-6421. (a) There is hereby established in every district a fund which shall be called the vocational education fund. All moneys received by a district for any course or program authorized and approved under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated; ~~except for courses and programs conducted in an area vocational school;~~ shall be credited to the vocational education fund. All moneys received by the district from tuition, fees or charges or from any other source for vocational education courses or programs; ~~except for courses and programs conducted in an area vocational school;~~ shall be credited to the vocational education fund. The expenses of a district directly attributable to vocational education shall be paid from the vocational education fund.

(b) Obligations of a district pursuant to lawful agreements made under K.S.A. 72-4421, and amendments thereto, shall be paid from the vocational education fund established by this section. If any such agreement expresses an obligation of a district in terms of a mill levy, such obligation shall be construed to mean an amount equal to that which would be produced by the levy.

(c) Any balance remaining in the vocational education fund at the end of the budget year shall be carried forward into the vocational education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the vocational education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Any unencumbered balance of moneys attributable to appropriations by the legislature in the vocational education fund of a school district on June 30, 2010, may be expended by the school district for general education purposes of the school district in school year 2010-2011.

Sec. 23. K.S.A. 72-8237 is hereby amended to read as follows: 72-8237. (a) The board of education of any school district may: (1) Establish, operate and maintain a summer program for pupils; (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and (3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.

(b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.

(c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.

(d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. The expenses of a district directly attributable to summer programs shall be paid from the summer program fund.

Any unencumbered balance of moneys remaining in the summer program fund of a school district on June 30, 2010, may be expended by the school district for general education purposes of the school district in school year 2010-2011.

(e) As used in this section, the term "summer program" means a program which is established by the board of education of a school district and operated during the summer months for the purpose of giving remedial instruction to pupils or for the purpose of conducting special projects and activities designed to enrich and enhance the educational experience of pupils, or for both such purposes.

Sec. 24. K.S.A. 2009 Supp. 72-9509 is hereby amended to read as follows: 72-9509. (a) There is hereby established in every school district a fund which shall be called the bilingual education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district directly attributable to such bilingual education programs shall be paid from the bilingual education fund.

(b) Any balance remaining in the bilingual education fund at the end of the budget year shall be carried forward into the bilingual education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the bilingual education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Any unencumbered balance of moneys remaining in the bilingual education fund of a school district on June 30, 2010, may be expended by the school district for general education purposes of the school district in school year 2010-2011.

(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the bilingual education program and assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

Sec. 25. K.S.A. 2009 Supp. 72-9609 is hereby amended to read as follows: 72-9609. There is hereby established in every school district a fund which shall be called the professional development fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the school district from whatever source for professional development programs established under this act shall be credited to the fund established by this section. The expenses of a school district directly attributable to professional development programs shall be paid from the professional development fund.

Any unencumbered balance of moneys remaining in the professional development fund of a school district on June 30, 2010, may be expended by the school district for general education purposes of the school district in school year 2010-2011.

Sec. 26. K.S.A. 72-6411, 72-6415 and 72-8237 and K.S.A. 2009 Supp. 72-1046b, 72-6407, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6421, 72-6433d, 72-6442b, 72-6454, 72-6455, 72-6459, 72-9509, 72-9609 and 74-4939a are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 12, by striking all after the semicolon; by striking all in lines 13 and 14 and inserting “relating to school finance; amending K.S.A. 72-6411, 72-6415 and 72-8237 and K.S.A. 2009 Supp. 72-1046b, 72-6407, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6421, 72-6433d, 72-6442b, 72-6454, 72-6455, 72-6459, 72-9509, 72-9609 and 74-4939a and repealing the existing sections.”

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 12, Nays 28, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Petersen, Pilcher-Cook, Pyle, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Ostmeyer, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on this amendment to **HB 2595** first and foremost because it could increase local property taxes by \$65 million statewide.

This amendment could cause hundreds of local school districts to adopt huge percentage increases in their local option budget. For example, USD 274 Oakley could have a 25.5% increase on top of their current local option budget. USD 368 Paola could see a 12% LOB increase and USD 490 El Dorado could see a 12.2% increase in their LOB.

This amendment reduces current weights across-the-board to 83% which would drastically reduce funding for at-risk and bilingual students, and low-enrollment school districts.

We should adequately fund schools at the state level in order to reduce reliance on property taxes at the local level. This amendment does the opposite.

Senators voting for this amendment support a tax shift onto their local property taxpayers.

— ANTHONY HENSLEY

The Committee rose and reported progress (See Committee of the Whole, afternoon session).

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

AFTERNOON-SESSION

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **SB 434**.

The House concurs in Senate amendments to **Senate Substitute for HB 2310** and requests the Senate to return the bill.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 434**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 434**, 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, after line 21, by inserting the following:

“New Section 1. There is hereby created in the state treasury the department of corrections forensic psychologist fund. All moneys credited to the department of corrections forensic psychologist fund shall be used by the department of corrections for the purpose of contracting for the services of forensic psychologists. All expenditures from the department of corrections forensic psychologist fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of corrections or the secretary’s designee.

Sec. 2. K.S.A. 2009 Supp. 12-4117 is hereby amended to read as follows: 12-4117. (a) In each case filed in municipal court charging a crime other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of ~~\$19~~ \$20 shall be assessed and such assessment shall be credited as follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, \$2.50 to the Kansas commission on peace officers’ standards and training fund established by K.S.A. 74-5619, and amendments thereto, \$2 to the juvenile detention facilities fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto ~~and~~, \$1 to the trauma fund established pursuant to K.S.A. 2009 Supp. 75-5670, and amendments thereto, *and \$1 to the department of corrections forensic psychologist fund established pursuant to section 1, and amendments thereto.*

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to 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 local law enforcement training reimbursement fund, the law enforcement training center fund, the Kansas commission on peace officers’ standards and training fund, the juvenile detention facilities fund, the crime victims assistance fund ~~and~~, the trauma fund *and the department of corrections forensic psychologist fund* as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.”;

On page 6, by striking all in lines 23 through 26;

By striking all on pages 7 through 12;

On page 13, by striking all in lines 1 through 23 and inserting the following:

“Sec. 5. K.S.A. 2009 Supp. 21-4704, as amended by section 9 of 2010 House Bill No. 2661, is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 5

LEGEND
Presumptive Probation
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

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

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

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

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

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

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

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory

sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies, felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or

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

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

(n) The sentence for a third or subsequent violation of subsection (b) of K.S.A. 21-3705, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

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

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

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

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

(p) The sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716 and amendments thereto, or the sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of

imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

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

(q) The sentence for a violation of subsection (a)(2) of K.S.A. 21-3413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(r) *The sentence for a violation of K.S.A. 21-3520, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.*

(s) (1) *If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.*

(2) *The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.*

(3) *As used in this subsection, "ballistic resistant material" means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and keklar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.*

Sec. 6. On and after July 1, 2011, K.S.A. 2009 Supp. 21-4704, as amended by section 5, is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 5

LEGEND
Presumptive Probation
6 Months
9 Months
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

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

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

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

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

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

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

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory

sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies, felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a) of K.S.A. 21-3715, and amendments thereto, *or any attempt or conspiracy, as defined in K.S.A. 21-3301 or 21-3302, and amendments thereto, to commit such offense*, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716, and amendments thereto, *or any attempt or conspiracy to commit such offense*, shall be ~~presumed~~ *presumptive* imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such

sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or

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

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

(n) The sentence for a third or subsequent violation of subsection (b) of K.S.A. 21-3705, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

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

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

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

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

(p) The sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716 and amendments thereto, or the sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court

and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

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

(q) The sentence for a violation of subsection (a)(2) of K.S.A. 21-3413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of K.S.A. 21-3520, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.";

On page 20, by striking all in lines 40 through 43 and inserting the following:

"(2) Inmates sentenced for a class A or class B felony who have not had a parole board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the parole board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the parole board determines that such resources are insufficient. If the parole board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.";

On page 23, by striking all in lines 28 through 43;

By striking all on pages 24 through 26;

On page 27, by striking all in lines 1 through 23 and inserting the following:

"Sec. 8. On and after July 1, 2010, K.S.A. 2009 Supp. 22-4902, as amended by section 11 of 2010 House Bill No. 2661, is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless the context otherwise requires:

- (a) "Offender" means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) a sexually violent predator as defined in subsection (f);
- (4) any person who, on and after May 29, 1997, is convicted of any of the following crimes when the victim is less than 18 years of age:
 - (A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
 - (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
 - (C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
- (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
 - (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
 - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
 - (C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;
 - (D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto; or

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; ~~or~~

~~(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;~~

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(8) any person who has been convicted of an offense in effect at any time prior to May 29, 1997, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);

(9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);

(10) any person who has been convicted of aggravated *human* trafficking as defined in K.S.A. 21-3447, and amendments thereto; or

(11) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined by K.S.A. 65-4159, prior to its repeal or K.S.A. 2009 Supp. 21-36a03, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal or subsection (a) of K.S.A. 2009 Supp. 21-36a09, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or

(C) K.S.A. 65-4161, prior to its repeal or subsection (a)(1) of K.S.A. 2009 Supp. 21-36a05, and amendments thereto. The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b) of K.S.A. 2009 Supp. 21-36a05, and amendments thereto, which occurred on and after July 1, 2009, through the effective date of this act.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, on or after April 14, 1994, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
 (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto;
 (12) electronic solicitation as defined by K.S.A. 21-3523, and amendments thereto, committed on ~~and~~ or after April 17, 2008;

(13) *unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto, committed on or after July 1, 2010;*

(14) any conviction for an offense in effect at any time prior to April 29, 1993, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

~~(14)~~ (15) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

~~(15)~~ (16) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, on or after May 29, 1997, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
 (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
 (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
 (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
 (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;
 (6) any conviction for an offense in effect at any time prior to May 29, 1997, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 9. K.S.A. 21-3520 and K.S.A. 2009 Supp. 12-4117, 21-3826, 21-4704, as amended by section 9 of 2010 House Bill No. 2661, 21-4704, as amended by section 19 of 2010 House Bill No. 2435, 21-4704, as amended by section 8 of 2010 Senate Bill No. 586, 22-3717, 22-4902, as amended by section 11 of 2010 House Bill No. 2661, 22-4902, as amended by section 4 of 2010 Substitute for Senate Bill No. 353, and 22-4902, as amended by section 9 of 2010 Senate Bill No. 586, are hereby repealed.

Sec. 10. On and after July 1, 2011, K.S.A. 2009 Supp. 21-4704, as amended by section 5, is hereby repealed.”;

And by renumbering the sections accordingly;

In the title, in line 15, before “relating” by inserting “creating the department of corrections forensic psychologist fund;”; also in line 15, after “to” by inserting “municipal court assessments;”; in line 18, after “Supp.” by inserting “12-4117;”; also in line 18, after “21-4704” by inserting “, as amended by section 9 of 2010 House Bill No. 2661, 21-4704, as amended by section 5”; also in line 18, after “22-4902” by inserting “, as amended by section 11 of 2010 House Bill No. 2661;”; in line 19, after “sections” by inserting “; also repealing K.S.A. 2009 Supp. 21-4704, as amended by section 19 of 2010 House Bill No. 2435, 21-4704, as amended by section 8 of 2010 Senate Bill No. 586, 22-4902, as amended by section 4 of 2010 Substitute for Senate Bill No. 353, and 22-4902, as amended by section 9 of 2010 Senate Bill No. 586”;

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

PAT COLLOTON
JOE PATTON
MELODY MCCRAY-MILLER
Conferees on part of House

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

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 434**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Emler.

The Conference Committee report was adopted.

REPORT ON ENGROSSED BILLS

SB 586 reported correctly engrossed May 5, 2010.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for further consideration of bills upon the calendar under the heading of General Orders with Senator V. Schmidt in the chair.

On motion of Senator V. Schmidt the morning and following afternoon report were adopted:

Senator D. Schmidt made a motion to reconsider **HB 2595**. Senator Vratil moved to amend **HB 2595** on page 2, after line 42, by inserting the following:

“Sec. 2. K.S.A. 2009 Supp. 31-150 is hereby amended to read as follows: 31-150. (a) Except as otherwise provided in this section, the construction, *reconstruction or renovation* of school buildings shall comply with the requirements of the 2000 edition of the international building code as published by the international codes council. All electric wiring shall conform to requirements of the 1999 issue of the national electric code of the national fire protection association.

(b) The construction, *reconstruction or renovation* of mobile, modular, portable or relocatable school buildings shall conform to the requirements of the 2000 edition of the life safety code as published by the national fire protection association.

(c) The construction, *reconstruction or renovation* of all school buildings shall conform to the provisions for making buildings and facilities accessible to, and usable by, persons with a disability, as required by K.S.A. 58-1301 through 58-1311, and amendments thereto.

(d) No contract shall be let for the construction, *reconstruction or renovation* of any school building, and it shall be illegal to pay out any public funds for the construction, *reconstruction or renovation* of a school building ~~until~~ *unless* the plans for such building shall ~~(1) bear the seal of an architect or a professional engineer licensed by the state board of technical professions of the state of Kansas certifying that the plans meet the applicable requirements of this act; and (2) be submitted to the state board of education for approval as to compliance with such requirements.~~

(e) The provisions of subsections (c) and (d) ~~of this section~~ shall not apply to any building or structure operated or used for any purpose by, or located upon the land of any community college, ~~area vocational school, area vocational-technical school,~~ technical college, municipal university, institution under the governance of the state board of regents or other institutions of post secondary education as defined by K.S.A. 74-3249, and amendments thereto. Prior to construction ~~of any new building or remodeling of any existing building,~~ *reconstruction or renovation of a building or structure*, all community colleges, ~~area vocational schools, area vocational-technical schools,~~ technical colleges, any municipal university, institutions under the governance of the state board of regents or other institutions of post secondary education as defined by K.S.A. 74-3249, and amendments thereto, shall submit to the state fire marshal a code footprint for evaluation and approval of the fire/life safety features of such ~~buildings~~ *building or structure*.

(f) The relocation of school buildings to which the provisions of subsection (b) apply shall not be construed to be construction or reconstruction under the provisions, ~~or for the purposes,~~ of this section.

~~(g) The construction or reconstruction of a school building, whether funded by bonds or other moneys, in a school district where general obligation bonds were authorized to be issued by a vote of the electors in an election held on or before July 1, 2000, shall be governed by the provisions of this section that were in effect on January 1, 2004.~~

~~The provisions of this subsection shall expire on July 1, 2006.~~

~~(h) (g) The state fire marshal shall adopt rules and regulations specifying those subsequent editions of the codes enumerated in subsections (a) and (b) which the state fire marshal has determined provide protection equivalent to those editions specified herein. Compliance with any subsequent edition specified by such rules and regulations shall be considered compliance with the edition of the code specified by this section.”;~~

And by renumbering the remaining sections accordingly;

Also on page 2, in line 43, by striking “72-1046b is” and inserting “31-150 and 72-1046b are”;

In the title, in line 13, after the semicolon by inserting “relating to school buildings;”; also in line 13, after “Supp.” by inserting “31-150 and”; in line 14, by striking “section” and inserting “sections” and **HB 2595** be passed as further amended.

S Sub for HB 2631 be amended by adoption of the committee amendments, be further amended by motion of Senator Emler on page 312, in line 7, before the period by inserting “: *Provided, however,* That the lapse provided for in this subsection shall not apply to the appropriations or reappropriations for fiscal year 2010 in each account of the state general fund for the state board of regents, or any state educational institution under the control and supervision of the state board of regents”; in line 21, before the period by inserting “: *Provided, however,* That the reduction in the expenditure limitations provided for in this subsection shall not apply to the special revenue funds in the state treasury for fiscal year 2010 of the state board of regents, or any state educational institution under the control and supervision of the state board of regents”; in line 40, before the period by inserting “: *Provided, however,* That the provisions of this subsection prescribing transfers of amounts from special revenue funds to the state general fund as provided for in this subsection shall not apply to the special revenue funds in the state treasury for fiscal year 2010 of the state board of regents, or any state educational institution under the control and supervision of the state board of regents”

S Sub for HB 2631 be further amended by motion of Senator Brownlee on page 125, in line 11, by subtracting \$12,362 from the dollar amount and by adjusting the dollar amount in line 11 accordingly; in line 27, by adding \$12,362 to the dollar amount and by adjusting the dollar amount in line 27 accordingly

S Sub for HB 2631 be further amended by motion of Senator Huelskamp on page 314, preceding line 16, by inserting the following:

“Sec. 166. (a) During the fiscal year ending June 30, 2011, subject to any applicable requirements of federal statutes, rules, regulations or guidelines, any expenditures or grants of money by any state agency for family planning services financed in whole or in part from federal title X moneys shall be made subject to the following two priorities: First priority to public entities (state, county, local health departments and health clinics) and if any moneys remain then; second priority to non-public entities which are hospitals or federally qualified health centers that provide comprehensive primary and preventative care in addition to family planning services.

(b) As used in this section “hospitals” shall have the same meaning as defined in K.S.A. 65- 425, and amendments thereto, and “federally qualified health center” shall have the same meaning as defined in K.S.A. 65-1669, and amendments thereto.”

And by renumbering the remaining sections accordingly

S Sub for HB 2631 be further amended by motion of Senator Huelskamp on page 314, after line 15, by inserting the following:

“Sec. 166. (a) During the fiscal year ending June 30, 2011, no expenditures shall be made from any moneys appropriated or reappropriated for any state agency from the state general fund or any special revenue fund or funds as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or any other appropriation act of the 2010 regular session of the legislature to plan, draft, propose, promulgate, finalize, or implement any rules and regulations pursuant to the clean air act (42 U.S.C. 7401 et seq.) involving the greenhouse gases identified in the final rule entitled “Endangerment and cause or contribute findings for greenhouse gases under Section 202(a) of the clear air act.”

(b) As used in this section, “state agency” has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto.”;

And by renumbering the remaining sections accordingly

S Sub for HB 2631 be further amended by motion of Senator D. Schmidt on page 174, after line 36, by inserting the following:

“Department of corrections forensic psychologist fund..... \$270,000

Provided, That if remittances in the department of corrections forensic psychologist fund exceed \$270,000, then the director of accounts and reports shall transfer each month during fiscal year 2011 all amounts credited to the department of corrections forensic psychologist fund during fiscal year 2011 in excess of \$270,000 from the department of corrections forensic psychologist fund to the operating expenditures account of the state general fund of the attorney general — Kansas bureau of investigation.”;

On page 187, after line 18, by inserting the following:

“(b) If 2010 Senate Bill No. 434 is passed by the legislature during the 2010 regular session and enacted into law, then, on July 1, 2010, the director of accounts and reports shall transfer \$270,000 from the adult correctional institutions account of the state general fund of the parole board to the department of corrections forensic psychologist fund of the department of corrections.”

S Sub for HB 2631 be further amended by motion of Senator Taddiken on page 71, following line 36, by inserting the following:

“(r) (1) In addition to the other purposes for which expenditures may be made by the department of administration from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2011 for the department of administration, as authorized by this or other appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the secretary of administration for fiscal year 2011 to establish a state real property inventory of all state real property: *Provided*, That, on or before August 30, 2010, the secretary of administration, or the secretary’s designee, shall complete a state real property inventory of all state real property: *Provided further*, That the state real property inventory shall include the legal description of each tract of state real property: *And provided further*, That, on or before August 30, 2010, the secretary of administration shall provide a copy of the state real property inventory to the members of the legislative coordinating

council, the house appropriations committee and the senate ways and means committee: *And provided further*, That, on or before November 30, 2010, the secretary of administration, or the secretary’s designee, shall (1) determine and compile a market value for each tract of state real property, including the insurance value of each tract of state real property, if insured, the estimated market value of each tract of state real property, or a suggested method of determining the value of each such tract of state real property, and (2) determine and verify the current use of each tract of state real property to the state: *And provided further*, That, on or before November 30, 2010, the secretary of administration shall prepare and provide a copy of a report of the state real property valuation and the current use of such state real property, to the governor, the governor-elect, the members of the legislative coordinating council, the members of the house appropriations committee and the members of the senate ways and means committee: *And provided further*, That on or before, November 30, 2010, a legislative state property evaluation committee shall be established: *And provided further*, That the members of the legislative state property evaluation committee shall include the governor or the governor’s designee, the governor-elect, or the governor-elect’s designee, the president of the senate, or the president’s designee, the speaker of the house, or the speaker’s designee, the minority leader of the house and senate, or such leader’s designee, the chairperson of the house appropriations committee and senate ways and means committees, or such chairperson’s designee, the chairperson of the house and senate taxation committees, or such chairperson’s designee, the chairperson of the senate commerce committee, or such chairperson’s designee, and the chairperson of the house commerce and labor committee, or such chairperson’s designee: *And provided further*, That, on or before January 15, 2011, the legislative state property evaluation committee shall (1) evaluate the marketability of each such tract of state real property, (2) evaluate the use or need of each such tract of state real property to the state, (3) evaluate the cost-to-benefit ratio of the state maintaining ownership of each such tract of state real property, (4) determine whether liquidation, privatization or leveraging of each such tract of state real property is in the best interest of the state, (5) establish contract safeguards and transaction parameters for the sale of such state real property, and (6) compile a prioritized list of such state real property which could be sold, liquidated, privatized or leveraged in an amount equal to or greater than \$175,000,000 in transaction value: *And provided further*, That, on or before January 15, 2011, the legislative state property evaluation committee shall provide a copy of such evaluation and determination to the members of the house appropriations committee and the members of the the senate ways and means committee: *And provided further*, That, on or before January 31, 2011, the secretary of administration, or the secretary’s designee, shall issue a request for proposal to liquidate all state real property which has been determined to be in the best interest of the state to sell: *And provided further*, That, on or before January 31, 2011, the secretary of administration shall provide a final report of all information required pursuant to this subsection to the members of the legislative coordinating council, the house appropriations committee, the senate ways and means committee and the legislative state property evaluation committee.

(2) As used in this subsection, “state real property” includes each tract of real property owned by the state of Kansas, or any state agency, as defined by K.S.A. 75-3701, and amendments thereto, and includes all buildings, facilities and other improvements thereon.”

S Sub for HB 2631 be further amended by motion of Senator Francisco on page 13, after line 23, by inserting the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2010, the following:

Midwest higher education commission \$4,331”;

On page 166, in line 22, by subtracting \$4,331 from the dollar amount and by adjusting the dollar amount in line 22 accordingly;

On page 172, in line 4, by subtracting \$4,331 from the dollar amount and by adjusting the dollar amount in line 4 accordingly

S Sub for HB 2631 be further amended by motion of Senator Emler on page 172, in line 9, after “for” by inserting “the state board of regents or the”; in line 14, after “account”

by inserting “or accounts”; also in line 14, after “of” by inserting “the state board of regents or”; in line 18, after “account” by inserting “or accounts”; also in line 18, after “of” by inserting “the state board of regents or”

S Sub for HB 2631 be further amended by motion of Senator Emler on page 13, after line 38, by inserting the following: “(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2010, the following:

Department of corrections forensic psychologist fund..... \$67,500

Provided, That any unencumbered balance in the department of corrections forensic psychologist fund account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.”;

On page 15, in line 25, by subtracting \$67,500 from the dollar amount and by adjusting the dollar amount in line 25 accordingly and **S Sub for HB 2631** be passed as further amended.

A motion by Senator Barnett failed and the following amendment was rejected; on page 20, in line 19, before the period by inserting “: *And provided further*, That, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto, or any other statute, no expenditures shall be made from this account during fiscal year 2011 for the purposes of paying the members of the legislature for subsistence allowance in excess of \$109 per calendar day for any regular or special session of the legislature during fiscal year 2011: *And provided further*, That, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto, no amount shall be payable to members of the legislature for subsistence allowance in excess of \$109 per calendar day for any regular or special session of the legislature during fiscal year 2011, under K.S.A. 46- 137a, and amendments thereto”;

On page 23, after line 36, by inserting the following:

“(e) Notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto, or any other statute, no expenditures shall be made from the operations (including official hospitality) account of the state general fund of the above agency during fiscal year 2012 for the purposes of paying the members of the legislature for subsistence allowance in excess of \$109 per calendar day for any regular or special session of the legislature during fiscal year 2012: *Provided*, That, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto, no amount shall be payable to members of the legislature for subsistence allowance in excess of \$109 per calendar day for any regular or special session of the legislature during fiscal year 2012, under K.S.A. 46- 137a, and amendments thereto.”;

On page 309, preceding line 20, by inserting the following:

“Sec. 162. (a) (1) Notwithstanding the provisions of K.S.A. 46-137a, 75-3212 or 75- 3223, and amendments thereto, or any other statute, no expenditures shall be made from any moneys appropriated for the fiscal year ending June 30, 2011, from the state general fund or any special revenue fund or funds by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature, by any state agency for the purposes of paying any member of a board for any calendar day for which subsistence allowance is payable to such member of a board under K.S.A. 75-3212 or 75-3223, and amendments thereto, at a rate in excess of \$109 per calendar day.

(2) Notwithstanding the provisions of K.S.A. 46-137a, 75-3212 or 75-3223, and amendments thereto, or any other statute, no expenditures shall be made from any moneys appropriated for the fiscal year ending June 30, 2012, from the state general fund or any special revenue fund or funds, by any state agency for the purposes of paying any member of a board for any calendar day for which subsistence allowance is payable to such member of a board under K.S.A. 75-3212 or 75-3223, and amendments thereto, at a rate in excess of \$109 per calendar day.

(3) As used in this section, (A) “state agency” means any state agency of the executive branch of state government (i) which has appropriations made for the fiscal year ending June 30, 2011, by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature, and (ii) which is, or which makes expenditures for, any board; and (B) “board” means any board, commission, committee, task force, panel

or other body in the executive branch of state government, including any advisory body, having one or more members who are entitled to receive per diem compensation for attendance at meetings of such body, or attendance at meetings authorized by such body of a subcommittee or other subsidiary group of such body, as provided in K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a and amendments thereto.

(b) Notwithstanding the provisions of K.S.A. 46-137a, 68-2003, 75-3212 or 75-3223, and amendments thereto, or any other statute, no expenditures shall be made by the Kansas turnpike authority during fiscal year 2011 or fiscal year 2012, for the purposes of paying any member of the Kansas turnpike authority under K.S.A. 68-2003, and amendments thereto, who is entitled, in accordance with K.S.A. 75-3223, and amendments thereto, to receive for any calendar day subsistence allowance under K.S.A. 75-3212 or 75-3223, and amendments thereto, at a rate in excess of \$109 per calendar day.”;

And by renumbering the remaining sections accordingly

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 14, Nays 26, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Colyer, Donovan, Holland, Huelskamp, Marshall, Masterson, Petersen, Pyle, Schmidt D, Schmidt V, Schodorf.

Nays: Brownlee, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Morris, Ostmeier, Owens, Pilcher-Cook, Reitz, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The motion failed and the amendment was rejected.

A motion by Senator Huelskamp failed and the following amendment was rejected on page 314, after line 15, by inserting the following:

“Sec. 166. (a) Except as provided by this section, for any fiscal year that commences on or after July 1, 2011, fiscal year spending by the state shall not increase above the fiscal year spending for the preceding fiscal year by more than the maximum percentage increase determined pursuant to this section. The maximum percentage increase in fiscal year spending for a fiscal year shall be equal to the result obtained by adding the rate of inflation for the calendar year ending during the preceding fiscal year, plus the percentage change in state population during the calendar year ending during the preceding fiscal year if a positive number.

(b) The legislature, by law, shall provide a mechanism to adjust the amount of a limitation under this section to reflect any subsequent transfer of all or any part of the cost of providing a governmental function. The mechanism shall adjust the amount of a limitation so that total costs are not increased as a result of the transfer. The adjustment mechanism provided for in this subsection shall be used in determining a limitation under this section beginning with the fiscal year immediately following the transfer.

(c) As used within this section:

(1) “State” means the state government including all branches, state offices, authorities, agencies, boards, commissions, institutions, instrumentalities and any division or unit of state government which are directly supported with tax funds, except that “state” does not include any enterprise;

(2) “fiscal year” means the twelve-month fiscal period prescribed by law for the state;

(3) “fiscal year spending” means all expenditures and reserve increases except, as to both, (A) expenditures for refunds of any kind, (B) expenditures of moneys received from the federal government, moneys received as grants, gifts or donations which are to be expended for purposes specified by the donor, moneys that are collections for another government, moneys received for pension contributions by employees and pension fund earnings, or (C) budget stabilization reserve fund transfers, emergency reserve fund transfers, or expenditures in accordance with this act;

(4) “inflation” means the change expressed as a percentage in the consumer price index for the Kansas City metropolitan area, all goods, all urban consumers, as officially reported by the bureau of labor statistics of the United States department of labor, or the successor index to such consumer price index; and

(5) "population" means the more recent of either the periodic census conducted by the United States department of commerce or its successor agency or the annual update of such census as prescribed by the legislature by law, which shall be adjusted every decade to match the federal decennial census.";

And by renumbering the sections accordingly

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 15, Nays 25, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Barnett, Brownlee, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Wagle.

Nays: Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

The motion failed and the amendment was rejected.

A motion by Senator Masterson failed and the following amendment was rejected; on page 55, following line 17, by inserting the following:

"Governatorial transition \$150,000";

On page 71, following line 36, by inserting the following:

"(r) (1) In addition to the other purposes for which expenditures may be made by the department of administration from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2011 for the department of administration, as authorized by this or other appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the secretary of administration for fiscal year 2011 to establish a state real property inventory of all state real property: *Provided*, That, on or before August 30, 2010, the secretary of administration, or the secretary's designee, shall complete a state real property inventory of all state real property: *Provided further*, That the state real property inventory shall include the legal description of each tract of state real property: *And provided further*, That, on or before August 30, 2010, the secretary of administration shall provide a copy of the state real property inventory to the members of the legislative coordinating council, the house appropriations committee and the senate ways and means committee: *And provided further*, That, on or before November 30, 2010, the secretary of administration, or the secretary's designee, shall (1) determine and compile a market value for each tract of state real property, including the insurance value of each tract of state real property, if insured, the estimated market value of each tract of state real property, or a suggested method of determining the value of each such tract of state real property, and (2) determine and verify the current use of each tract of state real property to the state: *And provided further*, That, on or before November 30, 2010, the secretary of administration shall prepare and provide a copy of a report of the state real property valuation and the current use of such state real property, to the governor, the governor-elect, the members of the legislative coordinating council, the members of the house appropriations committee and the members of the senate ways and means committee: *And provided further*, That on or before, November 30, 2010, a legislative state property evaluation committee shall be established: *And provided further*, That the members of the legislative state property evaluation committee shall include the governor or the governor's designee, the governor-elect, or the governor-elect's designee, the president of the senate, or the president's designee, the speaker of the house, or the speaker's designee, the minority leader of the house and senate, or such leader's designee, the chairperson of the house appropriations committee and senate ways and means committees, or such chairperson's designee, the chairperson of the house and senate taxation committees, or such chairperson's designee, the chairperson of the senate commerce committee, or such chairperson's designee, and the chairperson of the house commerce and labor committee, or such chairperson's designee: *And provided further*, That, on or before January 15, 2011, the legislative state property evaluation committee shall (1) evaluate the marketability of each such tract of state real property, (2) evaluate the use or need of each such tract of state real property to the state, (3) evaluate the cost-to-benefit ratio of the state maintaining ownership of each such tract of state real property, (4) determine whether liquidation, privatization or leveraging of

each such tract of state real property is in the best interest of the state, (5) establish contract safeguards and transaction parameters for the sale of such state real property, and (6) compile a prioritized list of such state real property which could be sold, liquidated, privatized or leveraged in an amount equal to or greater than \$175,000,000 in transaction value: *And provided further*, That, on or before January 15, 2011, the legislative state property evaluation committee shall provide a copy of such evaluation and determination to the members of the house appropriations committee and the members of the the senate ways and means committee: *And provided further*, That, on or before January 31, 2011, the secretary of administration, or the secretary's designee, shall issue a request for proposal to liquidate all state real property which has been determined to be in the best interest of the state to sell: *And provided further*, That, on or before January 31, 2011, the secretary of administration shall provide a final report of all information required pursuant to this subsection to the members of the legislative coordinating council, the house appropriations committee, the senate ways and means committee and the legislative state property evaluation committee.

(2) As used in this subsection, "state real property" includes each tract of real property owned by the state of Kansas, or any state agency, as defined by K.S.A. 75-3701, and amendments thereto, and includes all buildings, facilities and other improvements thereon.”;

On page 77, after line 1, by inserting the following:

“(g) On November 1, 2010, or as soon thereafter as moneys are available, and notwithstanding the provisions in K.S.A. 79-4231, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$6,400,000 from the oil and gas valuation depletion trust fund of the department of revenue to the state general fund: *Provided*, That the aggregate amount transferred under this subsection shall be accounted for by debiting each account in the oil and gas valuation depletion trust fund with the amount credited to such account that bears the same relation to the aggregate amount credited to such account as the aggregate amount transferred under this subsection bears to the aggregate amount credited to the oil and gas valuation depletion trust fund.”;

On page 115, in line 6, by subtracting \$877,007 from the dollar amount and by adjusting the dollar amount in line 6 accordingly;

On page 130, in line 20, by subtracting \$33,000,000 from the dollar amount and by adjusting the dollar amount in line 20 accordingly; in line 24, by subtracting \$33,000,000 from the dollar amount and by adjusting the dollar amount in line 24 accordingly;

On page 314, after line 15, by inserting the following:

“Sec. 166. In addition to the other purposes for which expenditures may be made by the department of revenue from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2011, as authorized by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the department of revenue from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2011 for operating expenditures relating to amnesty from assessment or payment of penalties and interest with respect to certain taxes in accordance with the following:

(a) (1) Notwithstanding the provisions of any other law to the contrary, with respect to the following taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties and interest with respect to unpaid taxes or taxes due and owing shall apply upon compliance with the provisions of this section and if such tax liability is paid in full within the amnesty period, from September 1, 2010, to December 31, 2010: (A) Privilege tax under K.S.A. 79-1106 et seq., and amendments thereto; (B) taxes under the Kansas estate tax act, K.S.A. 2009 Supp. 79-15,100 et seq., and amendments thereto; (C) taxes under the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto; (D) taxes under the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto; (E) taxes under the Kansas cigarette and tobacco products act, K.S.A. 79-3301 et seq., and amendments thereto; (F) taxes under the Kansas retailers' sales tax act, K.S.A. 79-3601 et seq., and amendments thereto and the Kansas compensating tax act, K.S.A. 79-3701 et seq., and amendments thereto; (G) local sales and use taxes under K.S.A. 12-187 et seq., and amendments thereto; (H) liquor enforcement

tax under K.S.A. 79-4101 et seq., and amendments thereto; (I) liquor drink tax under K.S.A. 79-41a01 et seq., and amendments thereto; and (J) mineral severance tax under K.S.A. 79-4216 et seq., and amendments thereto.

(2) Except for the Kansas privilege tax and individual and corporate income tax, amnesty shall apply only to tax liabilities due and unpaid for tax periods ending on or before December 31, 2009. For the Kansas privilege tax and individual and corporate income tax, amnesty shall apply only to tax liabilities due and unpaid for tax periods ending on or before December 31, 2008. For the eligible taxes and tax periods, amnesty shall apply to the under-reporting of such tax liabilities, the nonpayment of such taxes and the nonreporting of such tax liabilities.

(3) Amnesty shall not apply to any matter or matters for which, on or after September 1, 2010, any one of the following circumstances exist: (A) The taxpayer has received notice of the commencement of an audit; (B) an audit is in progress; (C) the taxpayer has received notice of an assessment pursuant to K.S.A. 79-2971 or 79-3643, and amendments thereto; (D) as a result of an audit, the taxpayer has received notice of a proposed or estimated assessment or notice of an assessment; (E) the time to administratively appeal an issued assessment has not yet expired; or (F) an assessment resulting from an audit, or any portion of such assessment, is pending in the administrative appeals process before the secretary or secretary's designee pursuant to K.S.A. 79-3226 or 79-3610, and amendments thereto, or the state court of tax appeals, or is pending in the judicial review process before any state or federal district or appellate court. Amnesty shall not apply to any matter that is the subject of an assessment, or any portion of an assessment, which has been affirmed by a reviewing state or federal district or appellate court. Amnesty shall not apply to any party to any criminal investigation or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency or fraud in relation to any tax imposed by the state of Kansas.

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

(c) Amnesty for penalties and interest shall be granted only to those eligible taxpayers who, within the amnesty period of September 1, 2010, to December 31, 2010, and in accordance with rules and regulations established by the secretary of revenue, have properly filed a tax return for each taxable period for which amnesty is requested, paid the entire balance of tax due and obtained approval of such amnesty by the department of revenue.

(d) If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the secretary of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal with respect to such tax liability. No tax payment received pursuant to this section shall be eligible for refund or credit. No payment of penalties or interest made prior to September 1, 2010, shall be eligible for amnesty.

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

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

(g) The department may issue administrative guidelines as are necessary to administer the provisions of this section.

Sec. 167. (a) On July 1, 2010, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state general fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state employees, as defined by this section, for each payroll period chargeable to fiscal

year 2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 5% of the amount so determined is hereby lapsed.

(b) On July 1, 2010, notwithstanding the provisions of K.S.A. 2-1904, 17-2233, 20-155, 20-318, 20-3122, 20-3124, 25-4119a, 32-801, 40-102, 40-110, 44-1003, 46-137a, 46-137b, 46-1102, 46-1210, 46-1211, 46-1212a, 48-203, 72-7602, 74-560, 74-601, 74-630, 74-2434, 74-2613, 74-3203a, 74-4908, 74-5002a, 74-8005, 74-8105, 74-8703, 75-412, 75-622, 75-711, 75-2535, 75-2701, 75-2935b, 75-3101, 75-3102, 75-3103, 75-3104, 75-3108, 75-3110, 75-3111, 75-3120f, 75-3120g, 75-3120h, 75-3120j, 75-3122, 75-3123, 75-3124, 75-3125, 75-3126, 75-3135, 75-3136, 75-3137, 75-3141, 75-3148, 75-3149, 75-3150, 75-3212, 75-3223, 75-3702a, 75-5001, 75-5101, 75-5203, 75-5301, 75-5601, 75-5701, 75-5702, 75-5708, 75-5903, 75-6301, 75-7001, 76-714 and 76-715 and K.S.A. 2009 Supp. 75-3135a, 75-7206, 75-7207, 75-7402 and 75-7427, and amendments thereto, or any other statute, the rate of compensation for each state employee is hereby reduced by 5% for the period commencing on the first day of the first payroll period chargeable to fiscal year 2011 and for each payroll period thereafter chargeable to fiscal year 2011 and shall not be increased for any payroll period chargeable to fiscal year 2011: *Provided*, That the secretary of administration is hereby authorized and directed to implement and administer the provisions of this section to provide for such reductions: *Provided further*, That the secretary of administration shall ensure that such reductions to the rate of compensation of the state employees subject to the provisions of this section for the fiscal year 2011 have been implemented: *And provided further*, That the secretary of administration is hereby authorized to reduce any such rate of compensation to implement the provisions of this section: *And provided further*, That no such reduction prescribed by this subsection shall apply to payroll periods commencing on or after June 12, 2011.

(c) On July 1, 2010, the expenditure limitation established for the fiscal year ending June 30, 2011, provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, or by the state finance council on each special revenue fund in the state treasury is hereby decreased for fiscal year 2011 by the amount equal to 5% of the amount that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state employees, as defined by this section, for each payroll period chargeable to fiscal year 2011 for such special revenue fund, as determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports.

(d) As used in this section, (1) "state agency" has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto, and includes the governor's department, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each agency of the executive branch, the legislature and each agency of the legislative branch, the judicial branch and each agency of the judicial branch;

(2) "state officer" means (A) the governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each secretary of a department or other chief executive officer of a department of the executive branch, each member of a board, commission, council or authority of the executive branch, (B) each member of the legislature, each legislative officer specified in K.S.A. 46-137b, and amendments thereto, each member of the staff of each legislative officer specified in K.S.A. 46-137b, and amendments thereto, (C) each justice of the supreme court, each judge of the court of appeals, each district judge, each district magistrate judge, and (D) each other state officer in the executive branch, legislative branch or judicial branch of state government whose position is specified by statute or is otherwise determined to be a salaried officer of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the Constitution of the State of Kansas, and in any case "state officer" includes all salaried officers of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the Constitution of the State of Kansas;

(3) "compensation" means any salary or per diem compensation provided by law for a state officer; and

(4) “state employee” means each employee of a state agency who is in the classified or unclassified service under the Kansas civil service act, who is not a state officer, and who is not (A) an employee of the state board of regents or of any state educational institution under the control and supervision of the state board of regents, or (B) any employee that provides essential services, such as highway patrol troopers, agents and forensic scientists and other laboratory employees of the Kansas bureau of investigation, adult and juvenile correctional officers, state hospital direct care workers, long-term care direct care workers, and power plant operators, as determined by the director of the budget, after consultation with the director of legislative research and upon certification by the director of the budget to the director of accounts and reports.

Sec. 168. (a) (1) No expenditures shall be made from any moneys appropriated for the fiscal year ending June 30, 2011, from the state general fund or any special revenue fund by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature, by any state agency to hire any individual as a state employee during fiscal year 2011, notwithstanding the provisions of any other statute, unless specifically authorized on or before July 1, 2010, by the governor or the secretary of administration for any state agency within the executive branch, by the chief justice for any agency within the judicial branch, or by the president of the senate or the speaker of the house of representatives for any agency within the legislative branch.

(2) On July 1, 2010, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2011, by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature, and that is budgeted for salaries and wages for individuals to be employed as state employees during fiscal year 2011, unless such employment is specifically authorized for fiscal year 2011 on or before July 1, 2011, by the governor or the secretary of administration for any state agency within the executive branch, by the chief justice for any agency within the judicial branch, or by the president of the senate or the speaker of the house of representatives for any agency within the legislative branch, as certified by the director of the budget to the director of accounts and reports for fiscal year 2011, is hereby lapsed from each such account. At the same time as such certification is transmitted to the director of accounts and reports, the director of the budget shall transmit a copy of such certification to the director of legislative research.

(3) On July 1, 2010, the expenditure limitation established for the fiscal year ending June 30, 2011, provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, by this or other appropriation act of the 2010 regular session of the legislature, or by the state finance council on each special revenue fund in the state treasury is hereby decreased for fiscal year 2011 by the amount equal to the amount that is budgeted for salaries and wages for individuals to be employed as state employees during fiscal year 2011, exclusive of any such amount budgeted for the employment of individuals to be employed as state employees for fiscal year 2011 as specifically authorized on or before July 1, 2010, by the governor or the secretary of administration for any state agency within the executive branch, by the chief justice for any agency within the judicial branch, or by the president of the senate or the speaker of the house of representatives for any agency within the legislative branch, as certified by the director of the budget to the director of accounts and reports for fiscal year 2011, from such special revenue fund, or account thereof. At the same time as such certification is transmitted to the director of accounts and reports, the director of the budget shall transmit a copy of such certification to the director of legislative research.

Sec. 169. (a) On July 25, 2010, and on or before the 25th of each month thereafter through June 25, 2011, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state general fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, that is budgeted for utility costs for a state agency for the fiscal year ending June 30, 2011, the amount equal to 5% of the amount so determined is hereby lapsed: *Provided*, That the

aggregate amount lapsed from all such accounts of the state general fund shall not exceed \$1,400,000.”;

And by renumbering the remaining sections accordingly

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 12, Nays 28, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Petersen, Pilcher-Cook, Pyle, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Ostmeyer, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

The motion failed and the amendment was rejected.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SCR 1631**; **HB 2595**, **S Sub for HB 2631** were advanced to Final Action, amendment and roll call.

SCR 1631, A CONCURRENT RESOLUTION reactivating the task force created by 2008 Senate Concurrent Resolution No. 1616 formed to study the design and implementation of an electronic motor vehicle financial security verification system.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pilcher-Cook, Pyle.

The resolution was adopted, as amended.

HB 2595, An act concerning school districts; relating to the provision of transportation; relating to school buildings; amending K.S.A. 2009 Supp. 31-150 and 72-1046b and repealing the existing sections.

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

Yeas: Abrams, Apple, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Barnett, Huntington, Lynn.

The bill passed, as amended.

S Sub HB 2631, An act making and concerning appropriations for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, June 30, 2016, and June 30, 2017, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2009 Supp. 2-223, 12-5256, 55-193, 72-8814, 75-2319, 75-6702, 76-775, 76-783, as amended by Section 33 of 2010 House Bill No. 2557, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171, 79-4801 and 82a-953a, section 14 of 2010 Senate Substitute for House Bill No. 2222, and Section 52 of Chapter 124 of the 2009 Session Laws of Kansas and repealing the existing sections.

On roll call, the vote was: Yeas 23, Nays 17, Present and Passing 0, Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Ostmeyer, Owens, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Masterson, Petersen, Pilcher-Cook, Pyle, Schmidt D, Steineger, Wagle.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I want to vote "no" on **S Sub for HB 2631**.

It was specifically stated that if we vote for this budget, we are expected to vote affirmatively on a tax bill. I can't do that.

In this down economy, where people are being laid off &/or they are under-employed, where many businesses are experiencing declining revenues; it is not good public policy to vote for a tax increase that would exacerbate the problem economy in Kansas.

It is not good public policy to vote for a state budget that increases when state revenues are projected to go down.

However, I did want to vote affirmatively for a budget, that is the reason I supported the Masterson Amendment where the state would sell enough assets, less than 2% of state assets, to balance a fully funded budget without a tax increase.

The Senate voted down that amendment, therefore, I cannot support a budget that requires a tax increase.

Thank you, Mr. President. — STEVE ABRAMS

Senator Petersen requests the record to show he concurs with the "Explanation of Vote" offered by Senator Abrams on **S Sub for HB 2631**.

MR. PRESIDENT: How do we spell irresponsible? Kansas Senate. Foolishly committing Kansas citizens to send more of their money to Topeka when they cannot make ends meet is betting on the come. It's not our money, it's theirs. It's time to stop. I vote "NO" on **S Sub for HB 2631**. — KARIN BROWNLEE

Senator Lynn requests the record to show she concurs with the "Explanation of Vote" offered by Senator Brownlee on **S Sub for HB 2631**.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **Senate Substitute for HB 2582**.

The House adopts the conference committee report on **SB 368**.

The House adopts the conference committee report on **HB 2454**.

The House not adopts the conference committee report on **SB 452**, requests a conference and appoints Representatives Neufeld, Kiegerl and Loganbill as second conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **SB 452**.

The President appointed Senators Brungardt, Reitz and Faust-Goudeau as second conferees on the part of the Senate.

On motion of Senator D. Schmidt the Senate adjourned until 11:00 a.m., Thursday, May 6, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

