

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Saturday, May 8, 2010—11:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Senators Bruce and Ostmeyer were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
When the pressure's on and tempers' short,
We tend to turn to You,
And beseech Your power to employ
To pull our measures through.
But every time this happens
We seem to hear You say,
"You ought to know by now
That I don't work that way."
So remind us that Your power
Must never be abused;
That You're our God to worship,
No one who can be used.
But there is a prayer that we *should* pray,
Whether we've lost or won.
Help us to pray and mean it,
"Lord, Thy will be done."
I pray in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Pilcher-Cook, Brownlee, Bruce, Kelsey, Masterson, Ostmeyer, Petersen, Taddiken and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1885—

A RESOLUTION in support of religious freedom for Coptic Christians.

WHEREAS, Coptic Christians are a Christian minority comprising approximately 10% of the Egyptian population and are an integral part of Egyptian society; and

WHEREAS, Egypt's Coptic Christian population is a victim of a systematic pattern of violence, including attacks as recently as January 6, 2010; and

WHEREAS, The United States Department of State's 2009 Report on International Religious Freedom states that the status of the Egyptian government's respect for religious

freedom “declined somewhat during the reporting period based on a failure to investigate and prosecute perpetrators of increased incidents of sectarian violence”; and

WHEREAS, Christian groups are required to have government permission to build or repair a church. The approval process for church construction is time-consuming and inflexible, and applicants often do not receive a response. Permits that have been approved, in some cases, cannot be acted upon because of interference by the state security services at both the local and national levels; and

WHEREAS, Christians and other minority religious practitioners fear government harassment if they officially register their religion on national identification cards; and

WHEREAS, The foundation of the United States Constitution and the Kansas Constitution are freedom and justice: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Senate of the State of Kansas urges the Egyptian government to provide better protection for the Coptic Christian population by investigating and prosecuting those who perpetrate violence against Coptic Christians, by compensating victims of such violence and by protecting and preserving Coptic Christian places of worship; and

Be it further resolved: That the Senate of the State of Kansas urges the Egyptian government to stop discriminatory practices that affect the Coptic Christian population, including the difficulty in building and repairing places of worship, the lack of representation in certain government bodies and the continued harassment of converts; and

Be it further resolved: That the Senate of the State of Kansas urges the Egyptian government to ensure that all places of worship are subject to the same transparent, non-discriminatory and efficient regulations regarding construction and maintenance; and

Be it further resolved: That the Senate of the State of Kansas urges the Egyptian government to ensure that every Egyptian is protected against discrimination in social, labor and other rights by modifying the national identity card either to omit mention of religious affiliation or make optional any mention of religious affiliation; and

Be it further resolved: That the Senate of the State of Kansas urges the Egyptian government to prevent incidences of religious intolerance by providing equal protection of the law and equal rights for all Egyptians, and by effectively prosecuting any such incidents that occur; and

Be it further resolved: That the Secretary of the Senate be directed to send enrolled copies of this resolution to the United States Secretary of State and the Kansas Congressional delegation.

On emergency motion of Senator Pilcher-Cook **SR 1885** was adopted unanimously.

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

AFTERNOON-SESSION

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

CHANGE OF REFERENCE

The President withdrew the name of Dan Watkins from the Calendar under the heading of Consideration of Appointments, and rereferred the appointment to the Committee on **Commerce**.

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: **HB 2130**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2130**, submits the following report:

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

On page 4, in line 5, by striking "2008" and inserting "2009"; by striking all in lines 39 through 43;

On page 5, by striking all in lines 1 through 15 and inserting the following:

"Sec. 2. K.S.A. 2009 Supp. 8-2504 is hereby amended to read as follows: 8-2504. (a) (1) From and after ~~July 1, 2007, and prior to January 1, 2008~~ *the effective date of this act and prior to June 30, 2010*, a law enforcement officer shall issue a warning citation to anyone violating subsection ~~(b)~~ (a) of K.S.A. 8-2503, and amendments thereto;

(2) *from and after June 30, 2010, until July 1, 2011*, persons violating subsection (a) of K.S.A. 8-2503, and amendments thereto, shall be fined ~~\$30~~ \$5 including court costs; ~~and~~

(3) *from and after July 1, 2011, persons violating subsection (a) of K.S.A. 8-2503, and amendments thereto, shall be fined \$10 including court costs; and*

~~(3) from and after January 1, 2008;~~ (4) persons violating subsection (b) of K.S.A. 8-2503, and amendments thereto, shall be fined \$60 including court costs.

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

Sec. 3. K.S.A. 2009 Supp. 8-2503 and 8-2504 are hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, in line 21, by striking "2008" and inserting "2009";

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

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

Conferees on part of Senate

GARY K. HAYZLETT

JENE VICKREY

MARGARET LONG

Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2130**.

HB 2130, An Act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections.

On roll call, the vote was: Yeas 29, Nays 8, Present and Passing 0, Absent or Not Voting 3.

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

Nays: Abrams, Huelskamp, Marshall, Masterson, Petersen, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Bruce, Ostmeyer, Steineger.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "AYE" on the Conference Committee Report on **HB 2130**. The verdict has long been in. Consistent seat belt usage reduces traffic injuries and traffic fatalities. The more that a motorist; driver or passenger engages in "buckling up," the more likely that motorist is to survive an accident. **HB 2130**, besides its \$11.5 million federal carrot, is just plain-good, common-sense, public safety policy. My voting record shows that David Haley, as both a Representative and Senator, has always supported increased usage of safety harnesses... with law enforcement encouraged compliance. But Mr. President... I would be remiss at this juncture to not remind the Chamber and this Legislature of the specter of law enforcement who for no probable cause whatsoever harass and detain law

abiding motorists for no other reason but “profiling.” This practice, and it bears repeating for the record, has been OUTLAWED in our state but allegations continue to abound. A bill that would require uniform statistical data for all traffic stops has been derailed in the Senate by powerful forces; protecting this classist and illegal practice. We could prove, or disprove, that gender or race or county of origin was a factor by a rogue cop or inattentive department in repeated stops with this data. Today, because of our need for public safety and more federal money, we overwhelmingly approve what might be another flimsy pretext for profiling. — DAVID HALEY

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1886—

A RESOLUTION recognizing the former Sumner High School in Kansas City, Kansas and encouraging participation in “Sumner in the City,” the fourth National Convention presented by the Sumner High School Alumni Association of Kansas City, Kansas, Inc., which takes place July 15-18, 2010.

WHEREAS, Sumner High School in Kansas City, Kansas opened its doors in 1905 after the Kansas legislature enacted House Bill No. 890, which segregated schools and called for the creation of a school exclusively for African-American students; and

WHEREAS, The school was named after Charles Sumner, a United States Senator, who fought hard for the emancipation of slaves and equal rights in the 1850’s. From the beginning, Sumner High School was built with the highest standards and was noted for the high ranking of its staff, with many not only having Bachelor’s Degrees, but Master’s Degrees as well; and

WHEREAS, In the 1930’s, the school had grown and become overcrowded and outdated, so a new building was constructed. The new Sumner High School was occupied in 1940. In the spring of 1978 the school closed. It was reopened as Sumner Academy of Arts and Sciences, a magnet school for highly motivated and academically talented students, continuing the same tradition the founders had in mind for the original school; and

WHEREAS, The Sumner High School Alumni Association, which began in 1984, has as one of its chief goals to preserve, protect and promote the high goals of Sumner High School. They are presenting their fourth National Convention, “Sumner in the City,” from July 15-18, 2010. “Continuing to Build on Our Greatness” will be the theme for this year: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we acknowledge and honor the historically significant and academically impressive Sumner High School and encourage all Kansans to share in remembering this school and celebrating their future endeavors during the “Sumner in the City” National Convention, taking place July 15-18, 2010 in Kansas City, Kansas; and

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

On emergency motion of Senator Haley **SR 1886** was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 452 reported correctly re-engrossed May 8, 2010.

On motion of Senator D. Schmidt, the Senate recessed until 5:00 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 131**.

The House adopts the conference committee report on **House Substitute for SB 293**.
Announcing passage of **House Substitute for SB 572**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 131; H Sub for SB 293; S Sub for HB 2356**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 131**, submits the following report:

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

On page 1, by striking all in lines 18 through 43;

By striking all on page 2 and inserting the following:

“Section 1. K.S.A. 2009 Supp. 74-32,162 is hereby amended to read as follows: 74-32,162. K.S.A. 2009 Supp. 74-32,163 through 74-32,183 *and section 9, and amendments thereto*, shall be known and may be cited as the Kansas private and out-of-state postsecondary educational institution act.

Sec. 2. K.S.A. 2009 Supp. 74-32,163 is hereby amended to read as follows: 74-32,163. As used in the Kansas private and out-of-state postsecondary educational institution act:

(a) “Academic degree” means any associate, bachelor’s, ~~first~~ professional, master’s, ~~intermediate (specialist) or doctor’s~~ *specialist or doctoral* degree.

(b) “Accreditation” means an accreditation by an agency recognized by the United States department of education.

(c) “Branch campus” means any subsidiary place of business maintained within the state of Kansas by an institution at a site which is separate from the site of the institution’s principal place of business and at which the institution offers a course or courses of instruction or study identical to the course or courses of instruction or study offered by the institution at its principal place of business.

(d) “Commission” means the advisory commission on private and out-of-state postsecondary educational institutions established pursuant to ~~this act~~ *K.S.A. 2009 Supp. 74-32,166, and amendments thereto*.

(e) “Distance education” means any course delivered primarily by use of correspondence study, audio, video or computer technologies.

(f) “Out-of-state postsecondary educational institution” means a postsecondary educational institution chartered, incorporated or otherwise organized under the laws of any jurisdiction other than the state of Kansas.

(g) “Institution” means an out-of-state or private postsecondary educational institution.

(h) “Institution employee” means any person, other than an owner, who directly or indirectly receives compensation from an institution for services rendered.

(i) “Owner of an institution” means:

(1) In the case of an institution owned by an individual, that individual;

(2) in the case of an institution owned by a partnership, all full, silent and limited partners;

(3) in the case of an institution owned by a corporation, the corporation, its directors, officers and each shareholder owning shares of issued and outstanding stock aggregating at least 10% of the total of the issued and outstanding shares; and

(4) in the case of an institution owned by a limited liability company, the company, its managers and all its members.

(j) “Person” means an individual, firm, partnership, association or corporation.

(k) “Physical presence” means:

(1) The employment in Kansas of a Kansas resident for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising or any other activity on behalf of the institution; ~~or~~; *or*

(2) The delivery of, or the intent to deliver, instruction in Kansas with the assistance from any entity within the state in delivering the instruction including, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution.

(l) "Private postsecondary educational institution" means an entity which:

(1) Is a business enterprise, whether operated on a profit or not-for-profit basis, which has a physical presence within the state of Kansas or which solicits business within the state of Kansas;

(2) offers a course or courses of instruction or study through classroom contact or by distance education, or both, for the purpose of training or preparing persons for a field of endeavor in a business, trade, technical or industrial occupation or which offers a course or courses leading to an academic degree; and

(3) is not specifically exempted by the provisions of this act.

(m) "Representative" means any person employed by an institution to act as an agent, solicitor or broker to procure students or enrollees for the institution ~~by solicitation within this state at any place other than the office or a place of business of the institution.~~

(n) "State board" means the ~~Kansas~~ *state* board of regents or the board's designee.

(o) "Support" or "supported" means the primary source and means by which an institution derives revenue to perpetuate operation of the institution.

(p) "University" means a postsecondary educational institution authorized to offer ~~bachelor degrees together with graduate or first professional degrees~~ *any degree including a bachelor, graduate or professional degree.*

(q) "State educational institution" means any state educational institution as defined by K.S.A. 76-711, and amendments thereto.

~~(r) "This act" means the Kansas private and out-of-state postsecondary educational institution act.~~

Sec. 3. K.S.A. 2009 Supp. 74-32,167 is hereby amended to read as follows: 74-32,167.

(a) No institution may operate within this state without obtaining a certificate of approval from the state board as provided in this act. No institution shall confer or award any degree, *certificate or diploma*, whether academic or honorary, unless such institution has been approved for such purpose by the state board ~~of regents.~~

(b) Any contract entered into by or on behalf of any owner, employee or representative of an institution which is subject to the provisions of this act, but which has not obtained a certificate of approval, shall be unenforceable in any action.

Sec. 4. K.S.A. 2009 Supp. 74-32,168 is hereby amended to read as follows: 74-32,168.

(a) Each institution shall apply to the state board for a certificate of approval. ~~An institution shall not be required to obtain a separate certificate of approval for maintenance of any branch institution. An institution which opens or maintains a branch campus shall notify the state board that it has opened or is maintaining a branch campus. Such branch campus shall be subject to review by the state board to determine whether it complies with the provisions of this act and the standards of the state board established pursuant thereto.~~

(b) An application for a certificate of approval shall be made on a form prepared and furnished by the state board and shall contain such information as may be required by the state board.

(c) The state board may issue a certificate of approval upon determination that an institution meets the standards established by the state board. The state board may issue a certificate of approval to any institution accredited by a regional or national accrediting agency recognized by the United States department of education without further evidence.

Sec. 5. K.S.A. 2009 Supp. 74-32,169 is hereby amended to read as follows: 74-32,169.

The state board shall issue a certificate of approval to an institution when the state board is satisfied that the institution meets minimum standards established by the state board by adoption of rules and regulations to insure that:

(a) Courses, curriculum and instruction are of such quality, content and length as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum or instruction are offered;

(b) institutions have adequate space, equipment, instructional material and personnel to provide education and training of good quality;

- (c) educational and experience qualifications of directors, administrators and instructors are such as may reasonably insure that students will receive instruction consistent with the objectives of their program of study;
- (d) institutions maintain written records of the previous education and training of students and applicant students, and that training periods are shortened when warranted by such previous education and training or by skill or achievement tests;
- (e) a copy of the course outline, schedule of tuition, fees and other charges, settlement policy, rules pertaining to absence, grading policy and rules of operation and conduct are furnished to students upon entry into class;
- (f) upon completion of training or instruction, students are given certificates, diplomas or degrees as appropriate by the institution indicating satisfactory completion of the program;
- (g) adequate records are kept to show attendance, satisfactory academic progress and enforcement of satisfactory standards relating to attendance, progress and conduct;
- (h) institutions comply with all local, state and federal regulations;
- (i) institutions are financially responsible and capable of fulfilling commitments for instruction;
- (j) institutions do not utilize erroneous or misleading advertising, either by actual statement, omission or intimation; ~~and~~
- (k) institutions have and maintain a policy, which shall be subject to state board approval, for the refund of unused portions of tuition, fees and other charges if a student enrolled by the institution fails to begin a course or withdraws or is discontinued therefrom at any time prior to completion. Such policies shall take into account those costs of the institution that are not diminished by the failure of the student to enter or complete a course of instruction; *and*
- (l) *institutions adopt, publish and adhere to a procedure for handling student complaints. Institutions shall post information so that students will be aware of the complaint process available to them. The information shall be posted in locations that are used or seen by all students on a regular basis such as the institution's web site, enrollment agreement, catalogue or other media.*

Sec. 6. K.S.A. 2009 Supp. 74-32,170 is hereby amended to read as follows: 74-32,170.
 (a) After review of an application for a certificate of approval and if the state board determines that the institution meets the requirements of this act *and the standards established by the state board*, the state board shall issue a certificate of approval to the institution. Certificates of approval shall be in a form specified by the state board. Certificates of approval shall state:

- (1) The date of issuance and term of approval;
 - (2) the correct name and address of the institution;
 - (3) the signature of the chief executive officer of the ~~Kansas board of regents~~ *state board* or a person designated by the state board to administer the provisions of this act; and
 - (4) any other information required by the state board.
- (b) Certificates of approval shall be valid for a term of one year.
- (c) Each certificate of approval shall be issued to the owner of an institution and shall not be transferable. If a change in ownership of an institution occurs, the new owner shall apply within ~~30~~ 60 days prior to the change in ownership for a new certificate of approval. The state board may waive the ~~thirty-day~~ *sixty-day* requirement upon determination that an emergency exists and that the waiver and change in ownership would be in the best interests of students currently enrolled in the institution. Whenever a change in ownership occurs as a result of death, court order or operation of law, the new owner shall apply immediately for a new certificate of approval.
- (d) At least ~~60~~ 120 days prior to expiration of a certificate of approval, the state board shall forward to the institution a renewal application form. *Any institution desiring to renew its certificate of approval, shall complete and submit the application for renewal to the state board at least 60 days prior to the expiration of the institution's certificate of approval.*
- (e) ~~Any institution which is not yet in operation when its application for a certificate of approval is filed shall not accept payments for tuition, fees or other enrollment charges until receipt of the certificate of approval.~~

(e) *Unless exempt from the provisions of this act pursuant to K.S.A. 2009 Supp. 74-32,164, and amendments thereto, an institution shall not accept payments for tuition, fees or other enrollment charges until the institution receives a certificate of approval from the state board.*

(f) Any institution which does not plan to renew a certificate of approval shall notify the state board of its intent not to renew at least 60 days prior to the expiration date of the certificate of approval.

Sec. 7. K.S.A. 2009 Supp. 74-32,178 is hereby amended to read as follows: 74-32,178. Upon application of the attorney general or a county or district attorney, a district court shall have jurisdiction to enjoin any violation of this act and to enjoin persons from engaging in business in this state. In any action brought to enforce the provisions of this act, if the court finds that a person willfully used any deceptive or misleading act or practice *or operates an institution without first obtaining and maintaining a certificate of approval*, the attorney general or a county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this act, a civil penalty not exceeding ~~\$1,000~~ \$5,000 for each violation. For purposes of this section, ~~a willful~~ *an intentional* violation occurs when the person committing the violation knew or should have known that the conduct of the person consisted of acts or practices which were deceptive or misleading *including the operation of an institution without first obtaining a certificate of approval from the state board. Any violation of this act or any rule or regulation adopted pursuant thereto is a deceptive act or practice under the Kansas consumer protection act. Any remedy provided by this act shall be in addition to any other remedy provided by the Kansas consumer protection act.*

Sec. 8. K.S.A. 2009 Supp. 74-32,181 is hereby amended to read as follows: 74-32,181. (a) *This section is subject to the provisions of section 9, and amendments thereto.*

(b) The state board shall fix, charge and collect fees for certificates of approval, registration of representatives and providing transcripts to students who attended an institution that has ceased operation by adopting rules and regulations for such purposes, subject to the following limitations:

(1) For institutions domiciled or having their principal place of business within the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than	\$1,700
Initial issuance of certificate of approval degree granting — not more than	..... \$2,000
Renewal of certificate of approval nondegree granting — not more than	..... \$1,200
Renewal of certificate of approval degree granting — not more than	..... \$1,600
Initial registration of representative — not more than	..... \$150
Annual renewal of registration of representative — not more than	..... \$100

(2) For institutions domiciled or having their principal place of business outside the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than	\$3,400
Initial issuance of certificate of approval degree granting — not more than	..... \$3,800
Renewal of certificate of approval nondegree granting — not more than	..... \$2,400
Renewal of certificate of approval degree granting — not more than	..... \$2,800
Initial registration of representative — not more than	..... \$300
Annual renewal of registration of representative — not more than	..... \$200
Student transcript from institution that has ceased operation — not more than	\$10

(c) *Fees shall not be refundable.*

(d) *If there is a change in the ownership of an institution and, if at the same time, there also are changes in the institution's programs of instruction, location, entrance requirements or other changes, the institution shall be required to submit an application for an initial certificate of approval and shall pay all applicable fees associated with an initial application.*

(e) *An application for renewal shall be deemed late if the applicant fails to submit a completed application for renewal, or documentation requested by the state board to complete the renewal process, before the expiration date of the current certificate of approval.*

~~(f)~~ (f) The state board shall determine on or before June 1 of each year the amount of revenue which will be required to properly carry out and enforce the provisions of the

Kansas private and out-of-state postsecondary educational institution act for the next ensuing fiscal year and shall fix the fees authorized for such year at the sum deemed necessary for such purposes within the limits of this section. Prior to adoption of any such fees, the state board shall afford the advisory commission an opportunity to make recommendations on the proposed fees.

~~(e)~~ (g) Fees may be charged to conduct onsite reviews for degree granting *and non-degree granting institutions* or to review curriculum in content areas where the state board does not have expertise.

New Sec. 9. (a) During fiscal year 2011, the state board shall collect the fees fixed by this section.

(1) For institutions domiciled or having their principal place of business within the state of Kansas:

Initial application fees:	
Non-degree granting institution	\$2,000
Degree granting institution	\$3,000
Initial evaluation fees (in addition to initial application fees):	
Non-degree level	\$750
Associate degree level	\$1,000
Baccalaureate degree level	\$2,000
Master's degree level	\$3,000
Professional and/or doctoral degree level	\$4,000
Renewal application fees:	
Non-degree granting institution	0.2 percent of gross tuition, but not less than \$1,200 nor more than \$25,000
Degree-granting institution	0.2 percent of gross tuition, but not less than \$1600 nor more than \$25,000
New program submission fees, for each new program:	
Non-degree program	\$250
Associate degree program	\$500
Baccalaureate degree program	\$750
Master's degree program	\$1,000
Professional and/or doctoral degree program	\$2,000
Program modification fee, for each program	\$100
Branch campus site fees, for each branch campus site:	
Initial non-degree granting institution	\$1,500
Initial degree granting institution	\$2,500
Renewal branch campus site fees, for each branch campus site:	
Non-degree granting institution	0.2 percent of gross tuition, but not less than \$1,200 nor more than \$25,000
Degree-granting institution	0.2 percent of gross tuition, but not less than \$1,600 nor more than \$25,000
On-site branch campus review fee, for each site	\$250
Representative fees:	
Initial registration	\$200
Renewal of registration	\$150
Late submission of renewal of application fee	\$125
Student transcript copy fee	\$10
Returned check fee	\$50
Changes in institution profile fees:	
Change of institution name	\$100
Change of institution location	\$100
Change of ownership only	\$100

(2) For institutions domiciled or having their principal place of business outside the state of Kansas:

Initial application fees:	
Non-degree granting institution	\$4,000
Degree granting institution	\$5,500
Initial evaluation fees (in addition to initial application fees):	
Non-degree level	\$1,500
Associate degree level	\$2,000
Baccalaureate degree level	\$3,000
Master's degree level	\$4,000
Professional and/or doctoral degree level	\$5,000
Renewal application fees:	
Non-degree granting institution	0.3 percent, but not less than \$2,400 nor more than \$25,000
Degree-granting institution	0.3 percent, but not less than \$3,000 nor more than \$25,000
New program submission fees, for each new program:	
Non-degree granting program	\$500
Associate degree program	\$750
Baccalaureate degree program	\$1,000
Master's degree program	\$1,500
Professional and/or doctoral degree program	\$2,500
Program modification fee, for each program	\$100
Branch campus site fees, for each branch campus site:	
Initial non-degree granting institution	\$4,000
Initial degree granting institution	\$5,500
Renewal branch campus site fees, for each branch campus site:	
Non-degree granting institution	0.3 percent, but not less than \$2,400 nor more than \$25,000
Degree-granting institution	0.3 percent, but not less than \$3,000 nor more than \$25,000
On-site branch campus review fee, for each site	\$500
Representative fees:	
Initial registration	\$350
Renewal of registration	\$250
Late submission of renewal of application fee	\$125
Student transcript copy fee	\$10
Returned check fee	\$50
Changes in institution profile fees:	
Change of institution name	\$100
Change of institution location	\$100
Change of ownership only	\$100

(b) Fees shall not be refundable.

(c) If there is a change in the ownership of an institution and, if at the same time, there also are changes in the institution's programs of instruction, location, entrance requirements or other changes, the institution shall be required to submit an application for an initial certificate of approval and shall pay all applicable fees associated with an initial application.

(d) An application for renewal shall be deemed late if the applicant fails to submit a completed application for renewal, or documentation requested by the state board to complete the renewal process, before the expiration date of the current certificate of approval.

(e) Fees may be charged to conduct onsite reviews for degree granting and non-degree granting institutions or to review curriculum in content areas where the state board does not have expertise.

New Sec. 10. Within the limits of appropriations therefore, the state board shall develop and maintain a statewide data collection system to collect and analyze private and out-of-state postsecondary educational information, including, but not limited to, student, course, financial aid and program demographics that will assist the board in improving the quality of private and out-of-state postsecondary education.

Sec. 11. K.S.A. 2009 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

- (a) Legislators and candidates for nomination or election to the legislature.
- (b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office.
- (c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto.
- (d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee.
- (e) General counsels for state agencies irrespective of how compensated.
- (f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery.
- (g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.
- (h) ~~From and after January 1, 2009;~~ Any faculty member or other employee of a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto, who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:
 - (1) Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or
 - (2) promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.
- (i) Except as provided by K.S.A. 2009 Supp. 46-247a, and amendments thereto, any faculty member who receives an annual salary of \$150,000 or more, other than an adjunct faculty member, who is employed by a state education institution as defined by K.S.A. 76-711, and amendments thereto.

Sec. 12. K.S.A. 2009 Supp. 46-247, 46-247a, 74-32,162, 74-32,163, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,178 and 74-32,181 are hereby repealed.

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

In the title, by striking all in lines 14 and 15 and inserting “AN ACT concerning postsecondary educational institutions; relating to the regulation thereof; relating to certain faculty thereof; amending K.S.A. 2009 Supp. 46-247, 74-32,162, 74-32,163, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,178 and 74-32,181 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 46-247a.”;

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

CLAY AURAND
 DEENA HORST
 VALDENIA WINN
Conferees on part of House

JEAN SCHODORF
 JOHN VRATIL
 ANTHONY HENSLEY
Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 131**.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 0, Absent or Not Voting 2.

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

Nays: Abrams, Brownlee, Huelskamp, Masterson, Petersen, Pilcher-Cook, Pyle.

Absent or Not Voting: Bruce, Ostmeyer.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 293**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 293, as follows:

On page 1, by striking all in lines 13 through 39 and inserting the following:

“New Section 1. United States highway 75 from the southern city limits of Holton then south on United States highway 75 to the junction of United States highway 75 and N.W. 46th street in Shawnee county is hereby designated as the Lane Freedom Trail. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is the Lane Freedom Trail, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Sec. 2. K.S.A. 68-1051 is hereby amended to read as follows: 68-1051. The portion of United States highway 75 where it enters the state on the Kansas-Nebraska border on the north then south to the junction with K-9 then west to the junction of K-9 with K-62 then south to the junction of K-62 with K-16 then east to the junction with United States highway 75 then south on United States highway 75 to the southern city limits of Holton, then from the junction of United States highway 75 and N.W. 46th street in Shawnee county then south on United States highway 75 to the Kansas-Oklahoma border, is hereby designated the purple heart/combat wounded veterans highway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the purple heart/combat wounded veterans highway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

Sec. 3. K.S.A. 68-1051 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, by striking all in lines 9 and 10 and inserting the following:

“AN ACT designating part of United States highway 75 as the Lane Freedom Trail; amending K.S.A. 68-1051 and repealing the existing section.”;

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

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

DWAYNE UMBARGER
 BOB MARSHALL
 KELLY KULTALA
Conferees on part of Senate

Senator Umbarger moved the Senate adopt the Conference Committee Report on **H Sub for SB 293**.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

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

Nays: Emler, Kultala, Lee, Steineger.

Absent or Not Voting: Bruce, Ostmeier.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2356**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as SENATE Substitute for House Bill No. 2356, as follows:

On page 1, in line 17, by striking “(a) Children in family child care homes, as defined”; by striking all in lines 18 through 43;

On page 2, by striking all in line 1 and inserting: “The changes to law in this act shall be known as Lexie’s law.”;

On page 3, by striking all in lines 26 through 35; in line 36, by striking “(d)” and inserting “(c)”;

On page 4, in line 6, after the stricken “or” by inserting “or”; in line 9, by striking “; or” and inserting a period; by striking all in line 10; in line 13, by striking “(e)” and inserting “(d)”;

in line 15, by striking “(f)” and inserting “(e)”;

in line 30, after the period, by inserting: “The license shall have on its face an expiration sticker stating the date of expiration of the license.”;

On page 5, in line 41, by striking “the” and inserting “a”; in line 42, after “be” by inserting “permanently”;

On page 6, in line 3, by inserting before “act” the following: “Kansas judicial review”; also in line 3, by striking all after “act”; in line 4, by striking all before the period; after line 4, by inserting the following:

“Sec. 6. K.S.A. 65-505 is hereby amended to read as follows: 65-505. (a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:

(1) For a maternity center, ~~\$75~~ \$150;

(2) for a child placement agency, ~~\$75~~ \$150;

(3) for a child care resource and referral agency, ~~\$75~~ \$150; and

(4) for any other child care facility, ~~\$35~~ \$75 plus \$1 times the maximum number of children authorized under the license to be on the premises at any one time.

The license fee shall be paid to the secretary of health and environment when the license is applied for and annually thereafter. The fee shall not be refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311, and amendments thereto. Fees in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

(b) Any ~~person licensee~~ who fails to renew ~~the person’s such~~ license within ~~the time~~ required by rules and regulations of the secretary *30 days after the expiration of the license*

shall pay to the secretary *the renewal fee plus a late renewal fee of \$10 in an amount equal to the fee for the renewal of a license.*

(c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.

(d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of 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, *notwithstanding any other law to the contrary*, shall deposit the entire amount in the state treasury to the credit of the ~~state general~~ *maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or by a person or persons designated by the secretary. Notwithstanding any other law to the contrary, no moneys shall be transferred or otherwise revert from this fund to the state general fund by appropriation act or other act of the legislature. Moneys available under this section by the creation of the maternity centers and child care licensing fee fund shall not be substituted for or used to reduce or eliminate moneys available to the department of health and environment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated.*”;

Also on page 6, after line 24, by inserting the following:

“Sec. 8. K.S.A. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, *adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation*, supervision and care of the residents by capable, qualified persons of sufficient number, *after hour care*, an adequate program of activities and services, *sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation* and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents. *The notice of hearing on initial rules and regulations proposed to be adopted to carry out the amendments to this subsection (c)(1) by this act shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.*

(2) *Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in child care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including*

sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices. The notice of hearing on initial rules and regulations proposed to be adopted under this subsection (c)(2) shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.”;

Also on page 6, in line 27, after “months” by inserting “prior to July 1, 2012, and once every 12 months thereafter.”; in line 40, by striking all after “(1)”;

by striking all in line 41 and inserting: “On or after the effective date of this act, the secretary of health and environment shall commence the inspection of registered family day care homes pursuant to section 17 and amendments thereto.”; by striking all in lines 42 and 43;

On page 7, by striking all in lines 1 through 5; in line 6, by striking “(3)” and inserting “(2)”;

in line 13, by striking all after “(1)”;

by striking all in lines 14 and 15; in line 16, by striking all before “categories” and inserting “Except as provided in subsection (b)(2), the following”;

in line 17, by striking “subject to this requirement are” and inserting “which were in compliance on the effective date of this act are not required to be inspected until July 1, 2011”;

by striking all in lines 22 through 24; in line 25, by striking “(3)” and inserting “(2)”;

also in line 25, by striking “2013” and inserting “2011”;

On page 9, in line 9, by striking the comma after “65-508” and inserting “and”;

also in line 9, by striking “and 65-519”;

in line 43, before “act” by inserting “Kansas judicial review”;

also in line 43, by striking “for judicial review and civil enforcement of agency actions”;

On page 10, preceding line 30, by inserting:

“(j) Except as provided in this subsection, no person shall maintain a child care facility unless such person is a high school graduate or the equivalent thereof. The provisions of this subsection shall not apply to any person who was maintaining a child care facility on the day immediately prior to the effective date of this act or who has an application for an initial license or the renewal of an existing license pending on the effective date of this act.”;

On page 11, in line 2, by striking “or registration”;

in line 19, before “K.S.A.” by inserting “On and after May 1, 2011.”;

On page 12, by striking all in lines 4 through 7; in line 8, by striking “(d)” and inserting “(c)”;

also in line 8, by striking “may” and inserting “shall”;

after line 25, by inserting the following:

“(d) Any records under subsection (a), (b) or (c) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.”;

On page 13, in line 7, by striking the comma after “28-4-113” and inserting “and”; in line 8, by striking all after “28-4-113”; by striking all in line 9; in line 10, by striking “thereto”;

On page 14, by striking all in lines 23 through 29 and inserting the following:

“New Sec. 17. (a) Except as otherwise provided in this section, a family day care home which holds a valid certificate of registration on the effective date of this act shall be deemed to have applied for a license as a day care home but shall continue to operate as a family day care home under the statutes and rules and regulations amended or repealed by this act which were applicable to family day care homes as such statutes were in effect immediately prior to the effective date of this act until such time that an inspection has been conducted, the home has qualified for licensure as a day care home, all applicable fees have been paid and an initial license as a day care home is duly issued by the secretary of health and environment, at which time the home shall be a licensed day care home and shall be governed by statutes and rules and regulations relating to day care homes.

(b) Notwithstanding the provisions of subsection (a):

(1) On and after the effective date of this act, all family day care homes, in addition to the statutes as provided in subsection (a), shall be subject to the following: The provisions of subsection (e) of K.S.A. 65-504, and amendment thereto, as amended by section 5 of this act; any rules and regulations adopted on and after the effective date of this act based on new authority granted by the amendments to K.S.A. 65-508 as amended by section 8 of this act; the provisions of subsection (j) of K.S.A. 65-516, and amendments thereto, as amended by section 10 of this act; inspections under the provisions of K.S.A. 65-512, as amended in section 9 of this act; K.S.A. 65-525, and amendments thereto, as amended by section 13 of this act; and K.S.A. 65-530, and amendments thereto, as amended by section 15 of this act; this section; and in addition to these statutes any other statutes or rules and regulations applicable to family day care homes; and

(2) a family day care home which has not yet been inspected and issued a license under this act shall pay the fee established by K.S.A. 65-505, and amendments thereto, for any other child care facility for renewal of a certificate of registration and not the fee specified in K.S.A. 65-519, and amendments thereto.

(c) The secretary of health and environment shall adopt such rules and regulations as may be necessary to administer the provisions of this section. Such rules and regulations shall include, but not be limited to, a time line subsequent to inspection of registered family day care homes for the transition of registered family day care homes to licensed day care homes and such other matters as may be necessary for the transition of registered family day care homes to licensed day care homes. Such rules and regulations shall be adopted within 60 days following the effective date of this act.

(d) The registration category of family day care homes shall cease to exist on June 30, 2011. The provisions of this section shall expire July 1, 2011.

New Sec. 18. On or before July 1, 2011, the secretary of health and environment shall establish or cause to be established an online information dissemination system that is accessible to the public, including names of licensees, applicants and history of citations and substantiated findings. The secretary of health and environment shall adopt rules and regulations which are consistent with the requirements for the receipt of child care ARRA funds and which provide for the establishment of an online information dissemination system in accordance with the provisions of this subsection. The notice of hearing on the initial rules and regulations proposed to be adopted under this subsection shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

Sec. 19. On May 1, 2011, K.S.A. 2009 Supp. 65-525 is hereby repealed.”;

And by renumbering sections accordingly;

Also on page 14, in line 30, after “65-504,” by inserting “65-505,”; also in line 30, after “65-506,” by inserting “65-508,”; in line 32, by striking “, 65-525”; in line 35, by striking “Kansas register” and inserting “statute book”;

In the title, in line 10, by striking all after “facilities”; in line 11, by striking “homes”; also in line 11, after “65-504,” by inserting “65-505,”; also in line 11, after “65-506,” by inserting “65-508,”;

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

JIM BARNETT
VICKI SCHMIDT
LAURA KELLY
Conferees on part of Senate

BRENDA LANDWEHR
DAVID J. CRUM
GERALDINE FLAHARTY
Conferees on part of House

Senator Barnett moved the Senate adopt the Conference Committee Report on **S Sub for HB 2356**.

On roll call, the vote was: Yeas 29, Nays 9, Present and Passing 0, Absent or Not Voting 2.

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

Nays: Apple, Brownlee, Huelskamp, Kelsey, Marshall, Masterson, Pilcher-Cook, Pyle, Taddiken.

Absent or Not Voting: Bruce, Ostmeyer.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **S Sub for HB 2356**. We cannot guarantee safety of children in a daycare setting with an inspection as much as we would like to.

Reaching into our homes for union members is unprecedented and certainly unnecessary.
- KARIN BROWNLEE

MESSAGE FROM THE HOUSE

The House announces the appointment of Representatives Schwartz, Shultz and Flaharty to replace Representatives Morrison, Burgess and Trimmer as conferees on **Senate Substitute for HB 2219**.

On motion of Senator D. Schmidt, the Senate recessed until 9:00 p.m.

EVENING-SESSION

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

MOTION TO CONCUR OR NONCONCUR

On motion of Senator Emler the Senate nonconcurred in the House amendments to **H Sub for SB 572** and requested a conference committee be appointed.

The President appointed Senators Emler, Vratil and Kelly as a conference committee on the part of the Senate.

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: **S Sub for HB 2219**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2219**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2219, as follows:

On page 1, by striking all in lines 17 through 43;

By striking all on pages 2 through 7, and by inserting the following:

“Section 1. K.S.A. 2009 Supp. 74-4927 is hereby amended to read as follows: 74-4927.

(1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916 and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, “maximum monthly compensation” means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, “workers compensation benefits” means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with subsection (17) of K.S.A. 74-4902 and amendments thereto except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each

company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Except as otherwise provided by this subsection, for the period commencing July 1, 2005, and ending June 30, 2006, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .8% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. For the period commencing July 1, 2006, and all periods thereafter, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on ~~March 1, 2009, and ending on November 30, 2009~~ *April 1, 2010, and ending on June 30, 2010, and the period commencing on April 1, 2011, and ending on June 30, 2011.*

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of subsection (4) of K.S.A. 74-4920 and amendments thereto shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas

and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 2. K.S.A. 2009 Supp. 74-4927 is hereby repealed.

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

On page 1, in the title, by striking all in lines 11 through 14, and by inserting the following: “AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; death and disability benefits, employer contributions; amending K.S.A. 2009 Supp. 74-4927 and repealing the existing section.”;

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

JAY SCOTT EMLER
JOHN VRATIL
LAURA KELLY
Conferees on part of Senate

SHARON SCHWARTZ
CLARK SCHULTZ
GERALDINE FLAHARTY
Conferees on part of House

Senator Emler moved the Senate adopt the Conference Committee Report on **S Sub for HB 2219**.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

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

Absent or Not Voting: Bruce, Ostmeyer.
The Conference Committee report was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** begs leave to submit the following report:
The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Minority Leader of the Senate:
Kansas Bioscience Authority: K.S.A. 2009 Supp. 74-99b04
Daniel Lawrence Watkins, term expires March 15, 2014

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointment, submitted by the Minority Leader of the Senate to the senate for confirmation, was considered.

Senator D. Schmidt moved the following appointment be confirmed as recommended by the Standing Senate Committee:

By the Minority Leader of the Senate:

On the appointment to the:

Kansas Bioscience Authority:

Dan Watkins, term expires March 15, 2014.

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

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

Absent or Not Voting: Bruce, Ostmeyer.

The appointment was confirmed.

On motion of Senator D. Schmidt the Senate adjourned until 2:00 p.m., May 10, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*



CORRECTION OF THE JOURNAL

Correct the Journal of the Senate for May 7, 2010, page 1562, following the adoption of the Conference Committee Report on **HB 2660** the following Explanation of Vote:

MR. VICE PRESIDENT: I am changing my vote from Aye to No on **HB 2660** with some regret because I am a Vietnam Veteran and my son is a Boy Scout Eagle. But like the sales tax exemptions in this state the numbers of specialized license plates have grown way too numerous and out of control. With all due respect to both my fellow Vietnam Veterans and Boy Scouts, I regrettably vote No on **HB 2660**.—TIM OWENS