

Journal of the House

FIFTY-EIGHTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, May 3, 2011, 10:00 a.m.

The House met pursuant to adjournment with Speaker O'Neal in the chair.

The roll was called with 124 members present.

Prayer by Chaplain Brubaker:

Our Heavenly Father,
Today I pray for our leaders
some advice given by a leader.
No matter how hard-fought the issue,
never let it get personal for you—
Do your homework;
You can't lead without knowing what you are talking about
or you will look like a jerk—
Next, our legislative process is one of give and take;
use your power as a leader to persuade, not intimidate—
Lastly, be considerate of the needs of your colleagues;
don't be the cause of their fatigue.
May words of wisdom fall upon listening ears.
In Christ's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Fawcett.

Kansas Trivia Question – In a good year for corn in Kansas, how high should it be by the 4th of July?

Answer: An elephant's eye.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Energy and Utilities: **HR 6027**.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Knox, **HR 6019**, A RESOLUTION honoring Representative Howard Sell, was adopted.

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

Today we honor the memory of a man who served in this body 50 years ago. Representative Howard Sell's service in the Kansas House was but a small part of his contributions to his state and to his country.

It seems a shame to wait until after death to honor the achievements of a life lived in service to others. But, Howard Sell was not a man to draw attention to himself.

So it is to his family that we say thank you and set aside this brief time to honor their father, grandfather, and great-grandfather for a life full of service and achievement.

Howard served his country in the European Theater of World War II, receiving the Soldier's Medal for bravery and spending the year after the war in military hospitals.

His service to rural Kansas lingers still because of KEPCo, the bulk electric power supplier, of which he was a founder and the first president. Rural electric cooperatives still receive inexpensive power from KEPCo's ownership in the Wolf Creek Nuclear Power Generation Station and from the hydroelectric sources that he had the foresight to push forward.

His involvement in his community in areas as widely ranging as the Boy Scouts, banking, and the arts laid a foundation that is still built upon today.

Members of Representative Sell's family here today are his son Philip Sell with his wife Barbara; his daughter Nancy Johnson; grandson Chris Johnson; granddaughter Cindy Johnson; granddaughter Erin Myers with her husband Brady and great-grandson and great-granddaughter Jacob and Ella Myers; granddaughter Amy Jordan and great-granddaughter Ava Jordan.

For Representative Sell's life of service please join me in honoring him and in recognizing his family for a life well lived.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Sloan, **HCR 5024**, A CONCURRENT RESOLUTION recognizing Lecompton as a Territorial Capital, was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6028**—

by Representative O'Neal

A RESOLUTION congratulating and commending Randy Hearrell.

WHEREAS, Randy Hearrell retired from the Kansas judicial council in December 2010 from his position as executive director. He has also served as director of the judicial performance commission since its inception in 2006; and

WHEREAS, During Mr. Hearrell's tenure, the council was instrumental in redrafting the civil code, criminal code, sentencing statutes and probate code, as well as, numerous other statutes every year. He was also actively involved in the creation of the Kansas judicial report card; and

WHEREAS, Mr. Hearrell was born on August 12, 1945 in Joplin, Missouri. His parents lived in Baxter Springs, Kansas, but at that time, the nearest hospital was in Joplin. His family moved to Topeka in 1957; and

WHEREAS, Mr. Hearrell graduated from Washburn University in 1966 and Washburn law school in 1970. While in law school, he received a fellowship that exposed him to the legislative process and ultimately led him down the path of working for the judicial council; and

WHEREAS, Mr. Hearrell has been married to his wife, Carla Nordstrom for 46 years. They have two sons, York and Zack; and

WHEREAS, Mr. Hearrell is widely respected for his years of service and dedication to the judicial council: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend Randy Hearrell for his many years of service to the Kansas judicial council and extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send three enrolled copies of this resolution to the Speaker of the House.

CONSENT CALENDAR

No objection was made to **HR 6024, HB 6025** appearing on the Consent Calendar for the first day.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Siegfried, pursuant to subsection (k) of Joint rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 10, H. Sub. for SB 55; SB 93, SB 124; HB 2044; S. Sub. for HB 2049; S. Sub. for HB 2080; Sub. HB 2135; S. Sub. for HB 2267; HB 2312.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2044** submits the following report:

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

On page 1, in line 27, by striking "5" and inserting "6"; also in line 27, before the period, by inserting ", except as provided in subsection (a)(5)"; following line 27, by inserting: "(5) The death of any person, if the person knew or reasonably should have known that such accident resulted in injury or death, shall be a level 5, person felony.";

On page 4, in line 38, following "40" by inserting "of chapter 136 of the 2010 Session Laws of Kansas";

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

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

Conferees on part of Senate

PAT COLLOTON

LANCE KINZER

MELODY MCCRAY MILLER

Conferees on part of House

On motion of Rep. Colloton, the conference committee report on **HB 2044** was adopted.

On roll call, the vote was: Yeas 112; Nays 12; Present but not voting: 0; Absent or not voting: 0.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Bruchman, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Grange, Grant, Gregory, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Brown, Brunk, Burgess, DeGraaf, Gordon, Grosserode, Hildabrand, Hoffman, Kelley, McLeland, Schwartz, Tyson.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2049**, 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 HB 2049, as follows:

On page 7, by striking all in lines in 20 through 22; following line 30, by inserting the following:

- "(33) 4-Bromo-2,5-dimethoxyphenethylamine..... 7392
- (34) 2,5-dimethoxy-4-(n)-propylthiopentethylamine (2C-7), its optical isomers, salts and salts of optical isomers.....7348
- (35) Alpha-methyltryptamine (other name: AMT).....7432
- (36) 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts and salts of isomers.....7439";

And redesignating remaining paragraphs accordingly;

On page 10, following line 5, by inserting the following:

“(10) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol

Some trade or other names: HU-210, HU 211.

Sec. 4. K.S.A. 65-4107 is hereby amended to read as follows: 65-4107. (a) The controlled substances listed in this section are included in schedule II and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of

vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:

(A) Raw opium.....	9600
(B) Opium extracts.....	9610
(C) Opium fluid.....	9620
(D) Powdered opium.....	9639
(E) Granulated opium.....	9640
(F) Tincture of opium.....	9630
(G) Codeine.....	9050
(H) Ethylmorphine.....	9190
(I) Etorphine hydrochloride.....	9059
(J) Hydrocodone.....	9193
(K) Hydromorphone.....	9150
(L) Metopon.....	9260
(M) Morphine.....	9300
(N) Oxycodone.....	9143
(O) Oxymorphone.....	9652
(P) Thebaine.....	9333
<u>(Q) Dihydroetorphine.....</u>	<u>9334</u>
<u>(R) Oripavine.....</u>	<u>9330</u>

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine (9041) or ecgonine (9180).

(5) Cocaine, its salts, isomers and salts of isomers (9041).

(6) Ecgonine, its salts, isomers and salts of isomers (9180).

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy) (9670).

(c) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation dextrorphan and levopropoxyphene excepted:

(1) Alfentanil.....	9737
(2) Alphaprodine.....	9010
(3) Anileridine.....	9020

(4) Bezitramide.....	9800
(5) Bulk dextropropoxyphene (nondosage forms).....	9273
(6) Carfentanil.....	9743
(7) Dihydrocodeine.....	9120
(8) Diphenoxylate.....	9170
(9) Fentanyl.....	9801
(10) Isomethadone.....	9226
(11) Levomethorphan.....	9210
(12) Levorphanol.....	9220
(13) Metazocine.....	9240
(14) Methadone.....	9250
(15) Methadone-intermediate,4-cyano-2-dimethyl amino-4,4-diphenyl butane	9254
(16) Moramide-intermediate, 2-methyl-3- morpholino-1, 1-diphenylpropane- carboxylic acid.....	9802
(17) Pethidine (meperidine).....	9230
(18) Pethidine-intermediate-A, 4-cyano-1-methyl- 4-phenylpiperidine...	9232
(19) Pethidine-intermediate-B, ethyl-4-phenyl- piperidine-4-carboxylate	9233
(20) Pethidine-intermediate-C, 1-methyl-4-phenyl- piperidine-4-carboxylic acid.....	9234
(21) Phenazocine.....	9715
(22) Piminodine.....	9730
(23) Racemethorphan.....	9732
(24) Racemorphan.....	9733
(25) Sufentanil.....	9740
(26) Levo-alpha-cetyl methadol.....	9648
Some other names: levo-alpha-acetyl methadol, levomethadyl acetate or LAAM.	
<u>(27) Remifentanil.....</u>	<u>9739</u>
<u>(28) Tapentadol.....</u>	<u>9780</u>

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers	1100
(2) Phenmetrazine and its salts.....	1631
(3) Methamphetamine, including its salts, isomers and salts of isomers...	1105
(4) Methylphenidate.....	1724
<u>(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.....</u>	<u>1205</u>

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts,

isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital.....2125
- (2) Glutethimide.....2550
- (3) Secobarbital.....2315
- (4) Pentobarbital.....2270
- (5) Phencyclidine.....7471

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
 - (A) Phenylacetone.....8501
 Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
- (2) Immediate precursors to phencyclidine (PCP):
 - (A) 1-phenylcyclohexylamine.....7460
 - (B) 1-piperidinocyclohexanecarbonitrile (PCC).....8603

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- Nabilone.....7379
- [Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one]

Sec. 5. K.S.A. 65-4109 is hereby amended to read as follows: 65-4109. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture or preparation containing:
 - (A) Amobarbital.....2126
 - (B) Secobarbital.....2316
 - (C) Pentobarbital.....2271
 or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
- (2) Any suppository dosage form containing:
 - (A) Amobarbital.....2126
 - (B) Secobarbital.....2316
 - (C) Pentobarbital.....2271

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

- (3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.....2100
- (4) Chlorhexadol.....2510
- (5) Lysergic acid.....7300
- (6) Lysergic acid amide.....7310
- (7) Methypylon.....2575
- (8) Sulfondiethylmethane.....2600
- (9) Sulfonethylmethane.....2605
- (10) Sulfonmethane.....2610
- (11) Tiletamine and zolazepam or any salt thereof.....7295
 Some trade or other names for a tiletamine-zolazepam combination product: Telazol
 Some trade or other names for tiletamine: 2- (ethylamino)-2-(2-thienyl)-cyclohexanone
 Some trade or other names for zolazepam: 4- (2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon
- (12) Ketamine, its salts, isomers, and salts of isomers.....7285
 Some other names for ketamine: (±) -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone
- (13) Gamma hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma hydroxybutyric acid contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act
- (14) Embutramide.....2020
- (c) Nalorphine.....9400
- (d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
- (1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.....9803
- (2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts
9804
- (3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....9805
- (4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any

of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9806

(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9807

(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9808

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9809

(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9810

(9) any material, compound, mixture or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(A) Buprenorphine.....9064

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances.....1405

(2) Benzphetamine.....1228

(3) Chlorphentermine.....1645

(4) Chlortermine.....1647

(5) Phendimetrazine.....1615

(f) Anabolic steroids.....4000

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(1) boldenone

(2) chlorotestosterone (4-chlortestosterone)

(3) clostebol

- (4) dehydrochlormethyltestosterone
- (5) dihydrotestosterone (4-dihydrotestosterone)
- (6) drostanolone
- (7) ethylestrenol
- (8) fluoxymesterone
- (9) formebulone (formebolone)
- (10) mesterolone
- (11) methandienone
- (12) methandranone
- (13) methandriol
- (14) methandrostenolone
- (15) methenolone
- (16) methyltestosterone
- (17) mibolerone
- (18) nandrolone
- (19) norethandrolone
- (20) oxandrolone
- (21) oxymesterone
- (22) oxymetholone
- (23) stanolone
- (24) stanozolol
- (25) testolactone
- (26) testosterone
- (27) trenbolone
- (28) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States' secretary of health and human services for such administration.

(B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product.....7369

Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro -6-6-9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-0l, or (-)-delta-9- (trans)-tetrahydrocannabinol.

(h) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Sec. 6. K.S.A. 65-4111 is hereby amended to read as follows: 65-4111. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam.....	2882
(2) Barbital.....	2145
(3) Bromazepam.....	2748
(4) Camazepam.....	2749
(5) Chloral betaine.....	2460
(6) Chloral hydrate.....	2465
(7) Chlordiazepoxide.....	2744
(8) Clobazam.....	2751
(9) Clonazepam.....	2737
(10) Clorazepate.....	2768
(11) Clotiazepam.....	2752
(12) Cloxazolam.....	2753
(13) Delorazepam.....	2754
(14) Diazepam.....	2765
<u>(15) Dichloralphenazone.....</u>	<u>2467</u>
(15) (16) Estazolam.....	2756
(16) (17) Ethchlorvynol.....	2540
(17) (18) Ethinamate.....	2545
(18) (19) Ethyl loflazepate.....	2758
(19) (20) Fludiazepam.....	2759
(20) (21) Flunitrazepam.....	2763
(21) (22) Flurazepam.....	2767
<u>(23) Fospropofol.....</u>	<u>2138</u>
(22) (24) Halazepam.....	2762
(23) (25) Haloxazolam.....	2771
(24) (26) Ketazolam.....	2772
(25) (27) Loprazolam.....	2773
(26) (28) Lorazepam.....	2885

(27) <u>(29)</u>	Lormetazepam.....	2774
(28) <u>(30)</u>	Mebutamate.....	2800
(29) <u>(31)</u>	Medazepam.....	2836
(30) <u>(32)</u>	Meprobamate.....	2820
(31) <u>(33)</u>	Methohexital.....	2264
(32) <u>(34)</u>	Methylphenobarbital (mephobarbital).....	2250
(33) <u>(35)</u>	Midazolam.....	2884
(34) <u>(36)</u>	Nimetazepam.....	2837
(35) <u>(37)</u>	Nitrazepam.....	2834
(36) <u>(38)</u>	Nordiazepam.....	2838
(37) <u>(39)</u>	Oxazepam.....	2835
(38) <u>(40)</u>	Oxazolam.....	2839
(39) <u>(41)</u>	Paraldehyde.....	2585
(40) <u>(42)</u>	Petrichloral.....	2591
(41) <u>(43)</u>	Phenobarbital.....	2285
(42) <u>(44)</u>	Pinazepam.....	2883
(43) <u>(45)</u>	Prazepam.....	2764
(44) <u>(46)</u>	Quazepam.....	2881
(45) <u>(47)</u>	Temazepam.....	2925
(46) <u>(48)</u>	Tetrazepam.....	2886
(47) <u>(49)</u>	Triazolam.....	2887
(48) <u>(50)</u>	Zolpidem.....	2783
(49) <u>(51)</u>	Zaleplon.....	2781
<u>(52)</u>	<u>Zopiclone.....</u>	<u>2784</u>

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (~~21 United States code 812~~21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1)	Cathine ((+)-norpseudoephedrine).....	1230
(2)	Diethylpropion.....	1610
(3)	Fencamfamin.....	1760
(4)	Fenproporex.....	1575
(5)	Mazindol.....	1605
(6)	Mefenorex.....	1580

- (7) Pemoline (including organometallic complexes and chelates thereof) 1530
- (8) Phentermine..... 1640

The provisions of this subsection (d)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 United States code 81221 U.S.C. § 812; 21 code of federal regulations 1308.14).

- (9) Pipradrol..... 1750
- (10) SPA((-)-1-dimethylamino-1,2-diphenylethane)..... 1635
- (11) Sibutramine..... 1675
- (12) Mondafinil..... 1680

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

- (1) Pentazocine..... 9709
- (2) Butorphanol (including its optical isomers)..... 9720

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit..... 9167
- (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3- methyl-2-propionoxybutane)..... 9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 7. K.S.A. 2010 Supp. 65-4113 is hereby amended to read as follows: 65-4113.

(a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

~~—(b)—Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing the following narcotic drug or its salts:
Buprenorphine — 9064~~

~~—(c)(b)~~ Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

~~(d)~~(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose).....8161

(2) Pyrovalerone.....1485

~~(e)~~(d) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.

~~(f)~~(e) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.

(f) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide] 2746

(2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].....2782";

Also on page 10, in line 6, by striking all following "K.S.A." and inserting "65-4107, 65-4107, as amended by section 2 of 2011 House Bill No. 2023, 65-4109, 65-4109, as amended by section 3 of 2011 House Bill No. 2023, 65-4111 and 65-4111, as amended by section 4 of 2011 House Bill No. 2023 and K.S.A. 2010 Supp. 21-36a05, 21-36a06, 65-4105, 65-4105, as amended by section 1 of 2011 House Bill No. 2023, 65-4113 and 65-4113, as amended by section 5 of 2011 House Bill No. 2023 are"; in line 9, by striking "Kansas register" and inserting "statute book";

On page 1, in the title, in line 1, after "K.S.A." by inserting "65-4107, 65-4109 and 65-4111 and K.S.A."; in line 2, by striking all following "21-36a06" and inserting ", 65-4105 and 65-4113 and repealing the existing sections; also repealing K.S.A. 65-4107, as amended by section 2 of 2011 House Bill No. 2023, 65-4109, as amended by section 3 of 2011 House Bill No. 2023, 65-4111, as amended by section 4 of 2011 House Bill No. 2023 and K.S.A. 2010 Supp. 65-4105, as amended by section 1 of 2011 House Bill No. 2023 and 65-4113, as amended by section 5 of 2011 House Bill No. 2023.";

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

VICKI SCHMIDT
 PETE BRUNGARDT
 LAURA KELLY

Conferees on part of Senate

PAT COLLOTON
 LANCE KINZER
 MELODY MCCRAY-MILLER

Conferees on part of House

On motion of Rep. Colloton, the conference committee report on **S. Sub. HB 2049** was adopted.

On roll call, the vote was: Yeas 120; Nays 3; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Grange, Grant, Gregory, Grosserode, Hayzlett, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Aurand, Gordon, Schwab.

Present but not voting: None.

Absent or not voting: Hedke.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2312** 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 5, in line 42, by striking "prepared" and inserting "approved";

On page 10, in line 42, after "theft" by inserting "of";

On page 15, in line 17, after "wiring" by inserting "of 25 pair or greater";

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

THOMAS C. OWENS
 JEFF KING
 DAVID HALEY

Conferees on part of Senate

PAT COLLOTON
LANCE KINZER
MELODY MCCRAY

Conferees on part of House

On motion of Rep. Colloton, the conference committee report on **HB 2312** was adopted.

On roll call, the vote was: Yeas 110; Nays 14; Present but not voting: 0; Absent or not voting: 0.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Finney, Flaharty, Garber, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Lane, Loganbill, Mah, Mast, McCray-Miller, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peterson, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Vickrey, Victors, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Aurand, Brown, Feuerborn, Frownfelter, D. Gatewood, Grosserode, Hildabrand, Kelly, Landwehr, McLeland, Peck, Phelps, Tyson, Ward.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORTS

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 55** submits the following report:

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

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

PAT COLLOTON
LANCE KINZER
MELODY MCCRAY-MILLER

Conferees on part of House

THOMAS C. OWENS
JEFF KING
DAVID HALEY

Conferees on part of Senate

On motion of Rep. Colloton the conference committee report on **H. Sub. for SB 55** to agree to disagree, was adopted.

Speaker O'Neal thereupon appointed Reps. Colloton, Kinzer and McCray-Miller as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 93**, submits the following report:

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

On page 3, in line 30, by striking "and agencies";

On page 4, by striking all in line 1 and inserting "office of the attorney general"; in line 32, by striking "officer" and inserting "officers";

On page 5, in line 9, by striking all after "with"; by striking all in line 10; in line 11, by striking "commission" and inserting "the office of the attorney general. The office of the attorney general"; also in line 11, before the period, by inserting "and may find there is insufficient evidence of racial or other biased-based policing or may forward the complaint for further review and possible action to the Kansas commission on peace officers' standards and training. The commission shall review and, if necessary, further investigate the complaint. The commission may take action on the officer's certification or other corrective action as allowed by its governing statutes and rules and regulations"; in line 12, by striking "commission's designee" and inserting "commission"; in line 13, by striking "making" and inserting "taking"; in line 14, by striking "recommendation" and inserting "action"; following line 18, by inserting the following:

"(b) Within 10 days of receiving a complaint, the office of the attorney general shall provide notification that such complaint has been filed to the accused officer and to the head of the accused officer's law enforcement agency, including a copy of all complaint documentation submitted by the complainant.";

And by relettering the remaining subsections accordingly;

On page 6, in line 10, after "agency" by inserting "and officer";

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

LANCE KINZER

JOE PATTON

JANICE L. PAULS

Conferees on part of House

PETE BRUNGARDT

ROGER P. REITZ

Conferees on part of Senate

On motion of Rep. Kinzer, the conference committee report on **SB 93** was adopted.

On roll call, the vote was: Yeas 96; Nays 27; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alford, Arpke, Aurand, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Fawcett, Feuerborn, Garber, D. Gatewood, Goico, Gonzalez, Goodman, Grange, Grant, Gregory, Grosserode, Hayzlett, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Landwehr, Mah,

Mast, McLeland, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Smith, Spalding, Suellentrop, Swanson, Tyson, Vickrey, Weber, Wetta, Williams, B. Wolf, K. Wolf, Worley.

Nays: Ballard, Burroughs, Carlin, Davis, Dillmore, Finney, Flaharty, Frownfelter, S. Gatewood, Gordon, Henderson, Kiegerl, Kuether, Lane, Loganbill, McCray-Miller, Meier, Peterson, Phelps, Ruiz, Sloan, Tietze, Trimmer, Victors, Ward, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Hedke.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 124** submits the following report:

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

On page 1, in line 5, before "Section" by inserting "New";

On page 2, in line 7, before "Sec." by inserting "New"; in line 14, before "Sec." by inserting "New"; in line 27, before "Sec." by inserting "New";

On page 3, in line 23, before "Sec." by inserting "New"; in line 38, before "Sec." by inserting "New"; in line 42, before "Sec." by inserting "New";

On page 4, in line 6, before "Sec." by inserting "New"; in line 16, before "Sec." by inserting "New"; in line 33, before "Sec." by inserting "New";

On page 5, in line 38, before "Sec." by inserting "New";

On page 6, in line 1, before "Sec." by inserting "New"; in line 10, before "Sec." by inserting "New"; in line 19, before "Sec." by inserting "New"; in line 28, before "Sec." by inserting "New"; in line 30, before "Sec." by inserting "New"; in line 34, before "Sec." by inserting "New"; also in line 34, by striking "river";

On page 7, in line 11, before "Sec." by inserting "New"; in line 24, before "Sec." by inserting "New";

On page 8, in line 15, before "Sec." by inserting "New";

On page 9, in line 7, before "Sec." by inserting "New"; in line 31, before "Sec." by inserting "New"; in line 37, before "Sec." by inserting "New"; in line 40, before "Sec." by inserting "New"; following line 41, by inserting the following:

"New Sec. 25. (a) The chief engineer may administer a water rights conservation program. An eligible water right in good standing may be enrolled in the program, subject to the approval of the chief engineer.

(b) A water right may be enrolled in the program for a period that shall not exceed 10 years. A water right enrolled in the program may be re-enrolled within two years of the expiration date of the previous enrollment period, subject to the approval of the chief engineer.

(c) Each application for enrollment in the program and each application for renewal of enrollment shall include a non-refundable fee not to exceed \$300.

(d) All fees collected by the chief engineer pursuant to this section shall be remitted

to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

(c) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

Sec. 26. K.S.A. 2010 Supp. 82a-718 is hereby amended to read as follows: 82a-718. (a) All appropriations of water must be for some beneficial purpose. Every water right of every kind shall be deemed abandoned and shall terminate when without due and sufficient cause no lawful, beneficial use is henceforth made of water under such right for five successive years. Before any water right shall be declared abandoned and terminated the chief engineer shall conduct a hearing thereon. Notice shall be served on the user at least 30 days before the date of the hearing. The determination of the chief engineer pursuant to this section shall be subject to review in accordance with the provisions of K.S.A. 2010 Supp. 82a-1901, and amendments thereto.

The verified report of the chief engineer or such engineer's authorized representative shall be prima facie evidence of the abandonment and termination of any water right.

(b) When no lawful, beneficial use of water under a water right has been reported for three successive years, the chief engineer shall notify the user, by certified mail, return receipt requested, that: (1) No lawful, beneficial use of the water has been reported for three successive years; (2) if no lawful, beneficial use is made of the water for five successive years, the right may be terminated; and (3) the right will not be terminated if the user shows that for one or more of the five consecutive years the beneficial use of the water was prevented or made unnecessary by circumstances that are due and sufficient cause for nonuse, which circumstances shall be included in the notice.

(c) The provisions of subsection (a) shall not apply to a water right that has not been declared abandoned and terminated before the effective date of this act if the five years of successive nonuse occurred exclusively and entirely before January 1, 1990. However, the provisions of subsection (a) shall apply if the period of five successive years of nonuse began before January 1, 1990, and continued after that date.

(d) Notwithstanding the provisions of subsection (a), an eligible water right enrolled in and continually in compliance with the water rights conservation program, pursuant to section 25, and amendments thereto, shall be deemed to have due and sufficient cause for nonuse and shall not be deemed abandoned.

~~(d)(e)~~ (e) Notwithstanding the provisions of subsection (a), a groundwater right, which has as its local supply an aquifer area that has been closed to new appropriations by rule, regulation or order of the chief engineer and where means of diversion are available to put water to a beneficial use within a reasonable time, shall be deemed to have due and sufficient cause for nonuse and shall not be deemed abandoned.

Sec. 27. K.S.A. 2010 Supp. 82a-731 is hereby amended to read as follows: 82a-731. There is hereby created in the state treasury the water appropriation certification fund. The chief engineer of the division of water resources of the Kansas department of agriculture shall remit all moneys received under K.S.A. 82a-708a, 82a-708b and 82a-727, and amendments thereto, and section 25, and amendments thereto, 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 water appropriation certification fund. All expenditures from the water appropriation certification 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 agriculture or by a person designated by the secretary.

Sec. 28. K.S.A. 2010 Supp. 82a-736 is hereby amended to read as follows: 82a-736. (a) As used in this section:

(1) "Base average usage" means: (A) The average amount of water actually used for a beneficial use under a groundwater water right during calendar years ~~1992~~2000 through ~~2002~~2009, excluding any amount used in any such year in excess of the amount authorized by such water right; or (B) if the holder of a groundwater water right shows to the satisfaction of the chief engineer that the holder has implemented significant water conservation measures during calendar years ~~1992~~ 2000 through ~~2002~~2009, the average amount of water actually used for a beneficial use under such right during the five calendar years immediately before the calendar year when such measures were implemented, excluding any amount used in any such year in excess of the amount authorized by such water right.

(2) "Chief engineer" means the chief engineer of the division of water resources of the department of agriculture.

(b) Any holder of a groundwater water right which has not been deposited or placed in a safe deposit account in a chartered water bank may establish a flex account where the holder may deposit, in advance, water from such water right for any five consecutive calendar years, subject to the following:

(1) The water right must be vested or shall have been issued a certificate of appropriation;

(2) the withdrawal of water pursuant to the water right shall be properly and adequately metered;

(3) the water right shall not ~~have been~~ deemed abandoned and shall be in good standing, based on past water usage and compliance with the terms of the holder's permit and all applicable provisions of law and orders of the chief engineer; and

(4) the amount of water that shall be deposited in the account shall not exceed 90% of the amount of the holder's base average usage times five.

(c) The chief engineer shall implement a program providing for the issuance of term permits to holders of groundwater water rights who have established flex accounts in accordance with this section. Such term permits shall authorize the use of water in a flex account at any time during the five consecutive calendar years for which the application for the term permit is made, without annual limits on such use. ~~Application for any such term permit shall be filed not later than October 10, of the year preceding the first year for which the application is made.~~

(d) Term permits provided for by this section shall be subject to the following:

(1) A separate term permit shall be required for each point of diversion.

(2) The quantity of water authorized for diversion shall be limited to the amount deposited pursuant to subsection (b)(4).

(3) The authorized place of use for the term permit shall not be greater than that authorized by the existing groundwater right.

(4) The chief engineer may establish, by rules and regulations, criteria for such term permits when the water right authorizes multiple points of diversion or multiple water rights authorize a single point of diversion or overlapping places of use.

(5) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations

adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(e) Unless a term permit is issued pursuant to an application filed before November 1 of the year prior to the first year for which the application is made, the quantity of water used under the water right during the year in which the application for the term permit is filed shall be deducted from the amount of water deposited into the account authorized by the term permit.

~~(e)(f)~~ All costs of administration of this section shall be paid from fees for term permits provided for by this section. Any appropriation or transfer from any fund other than the water appropriation certification fund for the purpose of paying such costs shall be repaid to the fund from which such appropriation or transfer is made. At the time of repayment, the secretary of agriculture shall certify to the director of accounts and reports the amount to be repaid and the fund to be repaid. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified to the specified fund.

~~(f)(g)~~ The chief engineer shall submit a written report on the implementation of this section to the house standing committee on environment and the senate standing committee on natural resources on or before February 1 of each year.

~~(g)(h)~~ This section shall be part of and supplemental to the Kansas water appropriation act.

New Sec. 29. (a) (1) There is hereby established in the state treasury the Arkansas river gaging fund, which shall be administered by the secretary of agriculture. All expenditures from the Arkansas river gaging fund shall be for the operation and maintenance of the gages along the Arkansas river necessary to manage the river under the Arkansas river compact, except that, after all expenditures are made during the fiscal year for the operation and maintenance of the gages along the Arkansas river necessary to manage the river under the Arkansas river compact, then, in accordance with the following priorities and subject to the expenditure limitations prescribed therefor:

(A) First, any remaining moneys authorized to be expended from the fund for the fiscal year shall be expended for the purposes of livestock market reporting in an amount not to exceed \$20,000 in a fiscal year; and

(B) second, if there are any remaining moneys authorized to be expended from the fund for the fiscal year after the expenditures for livestock market reporting, then expenditures shall be made from the fund for the purpose of funding the bluestem pasture report in an amount not to exceed \$5,000.

(2) All expenditures from the Arkansas river gaging 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 agriculture or the designee of the secretary of agriculture.

(b) All moneys received as royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray and Ford counties, except those moneys arising from leases on lands under the control of the secretary of wildlife and parks as provided by K.S.A. 32-854, and amendments thereto, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the Arkansas river gaging fund. During each fiscal year, when the total amount of moneys credited to the fund is equal to \$75,000, no further moneys shall be credited to the fund. The remainder of the moneys received for such royalties for such fiscal year shall be

credited to the state general fund.

Sec. 30. K.S.A. 2010 Supp. 82a-718, 82a-731 and 82a-736 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "and"; in line 2, by striking all before the period and inserting "; water rights conservation program; multi-year flex accounts; Arkansas river gaging fund; amending K.S.A. 2010 Supp. 82a-718, 82a-731 and 82a-736 and repealing existing sections";

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

LARRY POWELL

DAN KERSCHEN

JERRY WILLIAMS

Conferees on part of House

RALPH OSTMEYER

CAROLYN MCGINN

MARCI FRANCISCO

Conferees on part of Senate

On motion of Rep. Powell, the conference committee report on **SB 124** was adopted.

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

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Huebert, the House nonconcurred in Senate amendments to **S. Sub. for HB 2267** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Huebert, Seiwert and Mah as conferees on the part of the House.

On motion of Rep. Schwab, the House nonconcurred in Senate amendments to **S.**

Sub. for HB 2080 and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Schwab, Goico and Mah as conferees on the part of the House.

On motion of Rep. Siegfried, the House recessed until 11:30 a.m.

LATE MORNING SESSION

The House met pursuant to recess with Speaker pro tem Vickrey in the chair.

CHANGE OF REFERENCE

Speaker pro tem Vickrey announced the withdrawal of **SB 191** from Committee on Agriculture and Natural Resources and referral to Committee on Agriculture and Natural Resources Budget.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 10** 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 17, after line 31, by inserting the following:

"Sec. 4. On and after July 1, 2011, K.S.A. 2010 Supp. 79-1701a is hereby amended to read as follows: 79-1701a. Any taxpayer, the county appraiser or the county clerk shall, on their own motion, request the board of county commissioners to order the correction of the clerical errors in the appraisal, assessment or tax rolls as described in K.S.A. 79-1701, and amendments thereto. The board of county commissioners of the several counties are hereby authorized to order the correction of clerical errors, specified in K.S.A. 79-1701, and amendments thereto, in the appraisal, assessment or tax rolls for the current year and the immediately preceding two years during the period on and after November 1 of each year. If a county treasurer has collected and distributed the property taxes of a taxpayer and it shall thereafter be determined that the tax computed and paid was based on an erroneous assessment due to a clerical error which resulted in an overpayment of taxes by the taxpayer, and such error is corrected under the provisions hereof then the county commissioners may direct a refund in the amount of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus two percentage points, per annum*, from the date of payment from tax moneys collected during the current year and approve a claim therefor. If all or any portion of the taxes on such property remain unpaid, the board of county commissioners shall cancel that portion of such unpaid taxes which were assessed on the basis of the error which is being corrected. In lieu of taking such a refund the taxpayer may, at the taxpayer's option, be allowed a credit on the current year's taxes in the amount of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, from the date of payment for the previous year. In the event the error results in an understatement of value or taxes as a result of a mathematical miscomputation on the part of the county, the board of county commissioners of the

several counties are hereby authorized to correct such error and order an additional assessment or tax bill, or both, to be issued, except that, in no such case shall the taxpayer be assessed interest or penalties on any tax which may be assessed. If such error applies to property which has been sold or otherwise transferred subsequent to the time the error was made, no such additional assessment or tax bill shall be issued.

Sec. 5. On and after July 1, 2011, K.S.A. 79-2968 is hereby amended to read as follows: 79-2968. Except as otherwise specifically provided by law, whenever interest is charged under any law of this state upon any delinquent or unpaid taxes levied or imposed by the state of Kansas or any taxing subdivision thereof, or whenever interest is allowed under any law of this state upon any overpayment of taxes levied or imposed by the state of Kansas or any taxing subdivision thereof, the rate thereof shall be: ~~(a) One and one-half percent per month for any period prior to January 1, 1995, 1% per month for the period commencing on January 1, 1995, and ending on December 31, 1997, and 1/12 of the annual rate prescribed in subsection (b) thereafter, if computed monthly; and (b) eighteen percent per annum for any period prior to January 1, 1995, 12% per annum for the period commencing on January 1, 1995, and ending on December 31, 1997, and for any period thereafter, the underpayment rate per annum prescribed and determined under paragraph (2) of subsection (a) of section 6621, without regard to subsection (c) thereof, of the federal internal revenue code, as in effect on September 1, 1996, and which rate is in effect thereunder on July 1 of the year immediately preceding the calendar year for which the rate is being annually fixed hereunder, plus one percentage point, if computed annually. Beginning on January 1, 2012, the rate for property tax delinquencies or underpayments of \$10,000 or more shall be as provided for under this section or 10% per annum, whichever is greater.~~

In the event the interest rate prescribed under this section cannot be determined by reference to section 6621 of the federal internal revenue code, as in effect on September 1, 1996, the rate at which interest shall be collected on underpayments shall be the rate prescribed by K.S.A. 16-204, and amendments thereto, for interest on judgments for the applicable period.

Sec. 6. On and after July 1, 2011, K.S.A. 2010 Supp. 79-3609 is hereby amended to read as follows: 79-3609. (a) Every person engaged in the business of selling tangible personal property at retail or furnishing services taxable in this state, shall keep records and books of all such sales, together with invoices, bills of lading, sales records, copies of bills of sale and other pertinent papers and documents. Such books and records and other papers and documents shall, at all times during business hours of the day, be available for and subject to inspection by the director, or the director's duly authorized agents and employees, for a period of three years from the last day of the calendar year or of the fiscal year of the retailer, whichever comes later, to which the records pertain. Such records shall be preserved during the entire period during which they are subject to inspection by the director, unless the director in writing previously authorizes their disposal. Any person selling tangible personal property or furnishing taxable services shall be prohibited from asserting that any sales are exempt from taxation unless the retailer has in the retailer's possession a properly executed exemption certificate provided by the consumer claiming the exemption, except as follows: (1) A retailer is relieved of liability for tax otherwise applicable if the retailer obtains a fully completed exemption certificate or captures the relevant data elements required by the director within 90 days subsequent to the date of the sale; or (2) if the retailer has not obtained

an exemption certificate or all relevant data elements, the retailer, within 120 days subsequent to a request for substantiation by the director, either may obtain a fully completed exemption certificate from the purchaser, taken in good faith which meets the requirements specified in this subsection, or obtain other information establishing that the transaction was not subject to tax. Otherwise, the sales shall be deemed to be taxable sales under this act. The seller shall obtain an exemption certificate that claims an exemption that was authorized pursuant to Kansas law on the date of the transaction in the jurisdiction where the transaction is sourced pursuant to law, could be applicable to the item being purchased and is reasonable for the purchaser's type of business. If the seller obtains an exemption certificate or other information as described in this subsection, the seller is relieved of any liability for the tax on the transaction unless it is discovered through the audit process that the seller had knowledge or had reason to know at the time such information was provided that the information relating to the exemption claimed was materially false or the seller otherwise knowingly participated in activity intended to purposefully evade the tax that is properly due on the transaction, and it must be established that the seller had knowledge or had reason to know at the time the information was provided that the information was materially false.

(b) The amount of tax imposed by this act is to be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall ~~be begun~~begin after the expiration of such period. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may ~~be begun~~begin at any time; within two years from the discovery of such fraud. No assessment shall be made for any period preceding the date of registration of the retailer by more than three years except in cases of fraud. For any refund or credit claim filed after ~~June 15, 2009~~July 1, 2011, no refund or credit shall be allowed by the director after ~~one year~~three years from the due date of the return for the reporting period as provided by K.S.A. 79-3607, and amendments thereto, unless before the expiration of such period a claim therefor is filed by the taxpayer, and, except as otherwise provided in K.S.A. 2010 Supp. 79-3694, and amendments thereto, no suit or action to recover on any claim for refund shall be commenced, until after the expiration of six months from the date of filing such claim satisfying the requirements specified by K.S.A. 2010 Supp. 79-3693, and amendments thereto, therefor with the director. A refund claim shall not be deemed filed unless such claim is complete as required by K.S.A. 2010 Supp. 79-3693, and amendments thereto. For all mailed returns, including refund claims, each return or refund claim shall be presumed to have been filed with the department on the postmark date of such return or refund claim or if such date is illegible, the date three days prior to the date such return or refund claim is received.

(c) Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the period of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In consideration of such agreement or agreements, interest due in excess of 48 months on any additional tax shall be waived.

(d) Interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, shall be allowed on any overpayment of tax computed from the filing date of the return

claiming the refund, except that no interest shall be allowed on any such refund if the same is paid within 120 days after the filing date of the return claiming the refund or the date of payment, whichever is later, provided that such return or refund claim satisfies the requirements specified by K.S.A. 2010 Supp. 79-3693, and amendments thereto, at the time the return or refund claim is received.

(e) Notwithstanding any other provision of this section or the provisions of the Kansas compensating tax act:

(1) (A) Any claim for refund of tax imposed by the Kansas retailers' sales tax act or the Kansas compensating tax act based upon the provisions of subsection (kk) of K.S.A. 79-3606 in existence prior to its amendment by this act which is without dispute shall be allowed, but, with respect to any claim exceeding \$10,000, the refund associated therewith shall not be paid until after 510 days from the date such claim was filed and shall not include interest from such date. As used in this subparagraph, a claim for refund without dispute shall not include any claim the basis for which is a judicial or quasi-judicial interpretation of such subsection occurring after the effective date of this act.

(B) Any refund of tax resulting from a final determination or adjudication with regard to any claim submitted or to be submitted for refund of tax imposed by the Kansas retailers' sales tax act or the Kansas compensating tax act based upon the provisions of subsection (kk) of K.S.A. 79-3606 in existence prior to its amendment by this act not described by subparagraph (A) shall, with respect to any refund exceeding \$50,000, be paid in equal annual installments over 10 years commencing with the year of such final determination or adjudication. Interest shall not accrue during the time period of such payment.

(2) No claim for refund of tax imposed by the Kansas retailers' sales tax act or the Kansas compensating tax act based upon the application of the provisions of subsection (n) of K.S.A. 79-3606, and amendments thereto, pursuant to its interpretation by the court of appeals of the state of Kansas in its opinion filed on August 13, 1999, in the case entitled In re appeal of Water District No. 1 of Johnson County shall be allowed for tax paid prior to the effective date of this act. The provisions of this subsection shall not be applicable to water district no. 1 of Johnson county.";

And by renumbering the remaining sections accordingly;

Also on page 17, after line 33, by inserting the following:

"Sec. 8. On and after July 1, 2011, K.S.A. 79-2968 and K.S.A. 2010 Supp. 79-1701a and 79-3609 are hereby repealed.";

On page 1, in the title, in line 1, by string all after "ACT"; by striking all in lines 2 and 3 and inserting "concerning taxation; relating to sales taxation, countywide retailers', sales tax, periods of limitation for certain refunds and credits; property taxation, delinquent or underpaid taxes and overpayment of taxes, clerical errors, rate of interest; amending K.S.A. 79-2968 and K.S.A. 2010 Supp. 12-187, 12-189, 12-192, 79-1701a and 79-3609 and repealing the existing sections.";

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

RICHARD CARLSON

MARVIN KLEEB

NILE DILLMORE

Conferees on part of House

PAT APPLE

JEFF KING

G. THOMAS HOLLAND II

Conferees on part of Senate

On motion of Rep. Kleeb, the conference committee report on **SB 10** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 91; Nays 33; Present but not voting: 0; Absent or not voting: 0.

Yeas: Alford, Ballard, Bethell, Billinger, Bollier, Bowers, Brookens, Bruchman, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Colloton, Crum, Davis, Denning, Dillmore, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Goico, Gonzalez, Grange, Grant, Hayzlett, Hedke, Henderson, Henry, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelly, Kerschen, Kleeb, Kuether, Lane, Loganbill, Mah, Mast, McCray-Miller, Meier, Mesa, Mosier, Moxley, O'Neal, Osterman, Otto, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Roth, Ruiz, Ryckman, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Swanson, Tietze, Trimmer, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Arpke, Aurand, Boman, Brown, Brunk, Collins, DeGraaf, Donohoe, Garber, Goodman, Gordon, Gregory, Grosserode, Hermanson, Hildabrand, Huebert, Kelley, Kiegerl, Kinzer, Knox, Landwehr, McLeland, Meigs, Montgomery, O'Brien, O'Hara, Patton, Rhoades, Rubin, Scapa, Smith, Suellentrop, Tyson.

Present but not voting: None.

Absent or not voting: None.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Siegfried, pursuant to subsection (k) of Joint rule 4 of the Joint Rules of the Senate and House of Representatives, the rule was suspended for the purpose of considering **H. Sub. for SB 37**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 37** submits the following report:

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

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

PAT COLLOTON

LANCE KINZER

MELODY MCCRAY-MILLER

Conferees on part of House

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

On motion of Rep. Colloton, the conference committee report on **H. Sub. for SB 37** was adopted.

Speaker pro tem Vickrey thereupon appointed Reps. Colloton, Kinzer and McCray-Miller as second conferees on the part of the House.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Brown, the House concurred in Senate amendments to **Sub. HB 2135**, AN ACT concerning certain employees; relating to misclassification of employees to avoid tax withholding, contributions and reporting requirements; amending K.S.A. 2010 Supp. 44-703, 44-766 and 79-3234 and repealing the existing sections.

On roll call, the vote was: Yeas 89; Nays 35; Present but not voting: 0; Absent or not voting: 0.

Yeas: Alford, Arpke, Aurand, Bethell, Billinger, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Smith, Spalding, Suellentrop, Swanson, Tyson, Vickrey, Weber, B. Wolf, K. Wolf, Worley.

Nays: Ballard, Bollier, Burroughs, Carlin, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Montgomery, Pauls, Peterson, Phelps, Ruiz, Slattery, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: None.

Upon unanimous consent, the House referred back to the order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2409, AN ACT concerning the issuance of bonds; relating to the national bio and agro defense facility; providing for certain powers, duties and functions for the Kansas development finance authority and the department of administration; amending K.S.A. 2010 Supp. 74-8963 and repealing the existing section, by Committee on Appropriations.

HB 2410, AN ACT concerning Kansas racing and gaming commission; relating to meetings and compensation of members; amending K.S.A. 74-8803 and repealing the existing section, by Committee on Appropriations.

REPORTS OF STANDING COMMITTEES

Committee on **Energy and Utilities** recommends **HR 6027** be adopted, and because the committee is of the opinion that the resolution is of a noncontroversial nature, be placed on the consent calendar.

REPORT ON ENGROSSED BILLS

HB 2104, HB 2314, HB 2392 reported correctly engrossed May 2, 2011.

Also, **HB 2119, HB 2195, HB 2240** reported correctly re-engrossed May 3, 2011.

On motion of Rep. Siegfried, the House adjourned until 10:00 a.m., Wednesday, May 4, 2011.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

