

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, April 30, 2004—10:00 a.m.

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

Heavenly Father,

There is no question that sometimes You have to use drastic ways to get our attention.

When we are under pressure
From too many things to mention,
And we forget to call on You,
PLEASE get our attention!

And when we find ourselves
In the midst of much dissension,
That's another time for You
To PLEASE get our attention!

And when we start to speculate
On everyone's intentions,
Once more we need for You
To PLEASE get our attention!

And when we get in trouble
When there could have been prevention,
It's obvious that is when You need
to PLEASE get our attention!

But we need to be reminded, Lord,
When we ask Your intervention
That You have drastic means
Of getting our attention!

So before You use those drastic means
Beyond our comprehension,
We can avoid a lot of grief
By GIVING You our attention!

I pray in Jesus' Name,

AMEN

CHANGE OF CONFERENCE

The Vice President announced the appointment of Senators Brungardt, Lyon and Gilstrap as members of the Conference Committee on **H Sub for SB 2** to replace Senators Harrington, Vratil and Gooch.

ORIGINAL MOTION

Having voted on the prevailing side in Final Action on Thursday, April 29, 2004, Senator Jackson moved the Senate reconsider its adverse action on **HB 2758**, and that a new conference committee be appointed. The motion carried and the Vice President appointed Senators Allen, O'Connor and Betts as second conferees on the part of the Senate.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

Board of Tax Appeals:

Don R. Paxson, term expires January 15, 2008.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

Board of Tax Appeals:

Thomas H. Slack, term expires January 15, 2008.

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

Yeas: Adkins, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Bunten, Goodwin.

Present and Passing: Allen.

The appointment was confirmed.

On the appointment to the:

Kansas Lottery Commission:

Michael Gayoso Jr., term expires March 15, 2007.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

Kansas Lottery Commission:

Carole O. Gates, term expires March 15, 2008.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kerr, Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Buntten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1862—

A RESOLUTION congratulating and commending Dr. William G. Wolff.

WHEREAS, William G. (Bill) Wolff will retire on June 5, 2004, after serving nearly 30 years in the Kansas Legislative Research Department, including eight years as Associate Director of the Department; and

WHEREAS, William G. (Bill) Wolff commenced working for the Kansas Legislative Research Department in 1974 as a Research Aide, and because of his outstanding analytical and research skills was promoted to Research Assistant in 1975, Research Analyst in 1977, Principal Analyst in 1979 and Associate Director in 1996; and

WHEREAS, William G. (Bill) Wolff was known throughout the legislature for his years of working with the insurance, banking, claims, health and rules and regulations committees; and in these areas he worked with a wide variety of issues such as claims involving inmates stealing from each other and lost lottery tickets; and through his service to committees he worked with various commissioners of insurance, secretaries of state and state banking commissioners; and

WHEREAS, William G. (Bill) Wolff was the consummate professional who mentored college interns during the legislative sessions. He was a member of the state general fund consensus revenue estimating group, and served in that capacity with distinction and honor; and

WHEREAS, William G. (Bill) Wolff earned a bachelor's degree in social science from Buena Vista College, Storm Lake, Iowa; a master's degree in history from Southern Illinois University, Carbondale, Illinois; and a doctorate in history from Southern Illinois University, Carbondale, Illinois; and

WHEREAS, William G. (Bill) Wolff is married to Dr. Luella Wolff; and

WHEREAS, William G. (Bill) Wolff is an ordained deacon in the Episcopal Church in the United States of America and a mentor of education for ministry, an extension course of theological study offered through the University of the South's School of Theology, Sewanee, Tennessee. He also teaches in the school of ministry in the Episcopal Diocese of Kansas and intends to become an ordained priest by attending Virginia Theological Seminary in Alexandria, Virginia; and

WHEREAS, William G. (Bill) Wolff, has served the Kansas Legislature and now is embarking on serving a "higher power", and the Legislature recognizes that the fringe benefits with his new position will be "out of this world": Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Dr. William G. Wolff for giving nearly 30 years of devoted service to the state of Kansas and for the legacy of professional excellence he leaves after his many years with the Kansas Legislative Research Department; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to William G. Wolff, Kansas Legislative Research Department, Room 545-N, Statehouse, Topeka, Kansas 66612; and Leo Wolff, 313 Oneida, Storm Lake, Iowa 50588.

On emergency motion of Senator Kerr **SR 1862** was adopted unanimously.

Senator Kerr and members of the Senate welcomed and congratulated Dr. William (Bill) Wolff for his nearly 30 years of devoted service at the Kansas Legislature. Accompanying him was his wife, Dr. Luella Wolff.

Senators Jackson, Buntten and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1863—

A RESOLUTION congratulating and commending the Hayden High School of Topeka girls basketball team and Coach Doug Finch for winning the 2004 Class 4A State Basketball Championship.

WHEREAS, The Hayden High School girls basketball team won the 2004 Kansas State High School Activities Association Class 4A State Basketball Championship with a thrilling 45 to 37 victory over Wichita Collegiate High School in the state championship game at the Bicentennial Center in Salina on March 13. The team defeated Labette County in the first round of play and Colby in the semifinal competition to get to the championship game; and

WHEREAS, The Hayden High School “Wildcats” basketball team finished the season with a record of 23 wins and 3 losses. After losing in two prior championship games, the girls’ gold medals were particularly appreciated, and the victory gave the school its fourth Class 4A girls championship; and

WHEREAS, The members of the championship team were Morgan Gaffney, Jennifer Hubbell, Sarah Laha, Betsy Beam, Rachel Preisner, Amanda Holmes, Carrie Eaton, Stephanie Smith, Kalee Silovsky, Abi Dodds, Sarah Kirkwood, Lara Avery and Evelyn Boland; the coaches were Doug Finch, Head Coach, and James Sandstrom and Jay Simecka, Assistant Coaches and the managers were Robert Hojnacki, Chris Dodds, Marcus King, Megan Eisenbarth and Brittany Williams; and

WHEREAS, The members of this outstanding basketball team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school’s administrators, the faculty, the students, the players’ parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Hayden High School girls basketball team and Coach Finch be congratulated and commended for winning the 2004 Kansas State High School Activities Association Class 4A State Basketball Championship; and

Be it further resolved: That the Secretary of the Senate provide 22 enrolled copies of this resolution to Mark Madsen, Principal, Hayden High School, 401 S.W. Gage Blvd., Topeka, KS 66606-2099.

On emergency motion of Senator Jackson **SR 1863** was adopted unanimously.

Senator Jackson and members of the Senate congratulated members of the team on their winning the 4A State Basketball Championship. Accompanying the team was Coach Doug Finch.

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

SENATE RESOLUTION No. 1864—

A RESOLUTION congratulating and commending Trisa Nickoley.

WHEREAS, Trisa Nickoley, a senior at Shawnee Heights High School of rural Topeka, is one of the all-time greats in Kansas track history; and

WHEREAS, Entering her senior season, Trisa had never been beaten in an individual race in state competition in either cross country or track. She is a four-time, state high school cross country champion, only the third person to accomplish this feat. She is also a three-time state champion in the 400-, 800- and 1600-meter races with a chance for a “four-peat” at the state championships in late May. With an additional first place finish in a relay race, Trisa has won ten gold medals at Kansas high school state meets; and

WHEREAS, She won the national 800 meters title in Florida after her sophomore year, running then-all-time state best of 2:08.94; and

WHEREAS, Trisa is a four-time winner of the high school 800-meter race at the Kansas Relays. With her performance, Trisa is believed to be the only high school participant in relays history to win four titles in the same event. Trisa set the high school record at the relays by running a 2:06.67 on April 17, 2004. That time is believed to be the fastest time in the nation this year for a high school runner in the 800-meter run. Trisa had the second fastest time in the nation in 2003 with a time of 2:08.41; and

WHEREAS, Trisa's coaches applaud her for her work ethic and dedication to running. One observer indicated that she might "put on more miles running than I do on my car each year"; and

WHEREAS, Trisa has signed a national letter of intent to attend the University of Missouri where she will run track for the Tigers; and

WHEREAS, Trisa is the daughter of Robert and Sheri Nickoley of the Shawnee Heights community: Now, therefor,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Trisa Nickoley for her past accomplishments and wish her well on her road to the future with the hope that an Olympic appearance is in her future, if that is her desire; and

Be it further resolved: That the Secretary of the Senate provide five enrolled copies of this resolution to Trisa Nickoley, 5041 SE 45th Street, Tecumseh, KS 66542.

On emergency motion of Senator Hensley **SR 1864** was adopted unanimously.

Senator Hensley and members of the Senate congratulated Trisa Nickoley with a standing ovation for being a four-time state high school cross country champion. Accompanying her were her parents, Robert and Sheri; Grandparents, Robert and Martha Mark; Superintendent Gary Reynolds, Athletic Director Robert Shandy, Track Coach Brad Nicks, and Representative Roger Toelkes.

REPORTS OF STANDING COMMITTEES

Committee on Commerce begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Kansas, Inc.: K.S.A. 2003 Supp. 74-8001

Stanley R. Ahlerich, term expires January 15, 2008

Wilbur (Gene) E. Argo, term expires January 15, 2008

Patricia L. Bossert, term expires January 15, 2008

Donna A. Johnson, term expires January 15, 2005

Wilbert J. Leiker, term expires January 15, 2005

REPORT ON ENGROSSED BILLS

SB 304 reported correctly re-engrossed April 29, 2004.

SB 487 reported correctly engrossed April 30, 2004.

REPORT ON ENROLLED BILLS

SR 1851, SR 1852, SR 1853, SR 1854, SR 1855, SR 1856 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 29, 2004.

SR 1857, SR 1858, SR 1859, SR 1860, SR 1861, SR 1862 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 30, 2004.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **HB 2393, HB 2585, HB 2682**.

COMMITTEE OF THE WHOLE

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

On motion of Senator Jordan the following report was adopted:

Recommended **HB 2393, HB 2682** be passed.

HB 2585 be amended by adoption of the committee amendments, and the bill be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a 2/3 constitutional majority, and **HB 2393**, **HB 2585**, **HB 2682** were advanced to Final Action and roll call.

HB 2393, An act establishing the joint committee on Kansas security.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2585, An act relating to the Kansas department of agriculture; transferring powers and duties of the secretary of the department of health and environment to the secretary of agriculture; amending K.S.A. 65-688 and 74-560 and K.S.A. 2003 Supp. 74-567 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Haley.

The bill passed, as amended.

HB 2682, An act concerning cigarettes; relating to sales by licensed dealers; sales tax requirements; shipment; providing penalties for certain unlawful acts; counterfeit cigarettes.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: O'Connor, Pugh.

The bill passed.

On motion of Senator Oleen, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of **House Substitute for SB 536**.

The House adopts the conference committee report on **SB 67**.

The House adopts the conference committee report on **House Substitute for SB 272**.

The House accedes to the request of the Senate for a conference on **SB 29** and has appointed Representatives O'Neal, Patterson and Pauls as second conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **HB 2271** and has appointed Representatives Loyd, Owens and Ward as second conferees on the part of the House.

The House announces the appointment of Representative Patterson to replace Representative O'Neal and Representative Goering to replace Representative Patterson as a conferee on **SB 552**.

ORIGINAL MOTION

Senator Oleen 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 2937**.

COMMITTEE OF THE WHOLE

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

The committee rose and reported progress(further action follows)

On motion of Senator Oleen, the Senate recessed until 4:00 p.m.

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

Announcing the House nonconcur in Senate amendments to **HB 2585**, requests a conference and has appointed Representatives Vickrey, Ostmeyer and Thimesch as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **HB 2758** and has appointed Representatives Vickrey, Ostmeyer and Toelkes as second conferees on the part of the House.

On motion of Senator Oleen, the Senate recessed until 5:15 p.m.

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

Announcing the House adopts the conference committee report on **SB 141**.

The House adopts the conference committee report on **Senate Substitute for HB 2133**.

The House adopts the conference committee report on **HB 2549**.

The House adopts the conference committee report on **HB 2556**.

The House adopts the conference committee report on **HB 2597**.

The House adopts the conference committee report on **HB 2638**.

The House adopts the conference committee report on **HB 2669**.

The House adopts the conference committee report on **HB 2695**.

The House adopts the conference committee report on **HB 2705**.

The House adopts the conference committee report on **HB 2712**.

The House concurs in Senate amendments to **HB 2641** and requests the Senate to return the bill.

The House concurs in Senate amendments to **HB 2795** and requests the Senate to return the bill.

The House concurs in Senate amendments to **Senate Substitute for HB 2886** and requests the Senate to return the bill.

The House concurs in Senate amendments to **HB 2939**.

ORIGINAL MOTION

Senator Oleen 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 67, SB 141, H Sub for SB 272; HB 2347; S Sub for HB 2404; HB 2658**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 67**, submits the following report:

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

On page 1, in line 17, by striking "2002" and inserting "2003";

On page 4, in line 26, after "(h)" by inserting "(1)"; also in line 26, after the comma, by inserting "except as provided in paragraph (2),";

On page 5, after line 12, by inserting:

“(2) Nothing in this subsection shall allow the disclosure of reports, records or documents concerning the child and such child’s biological parents which were created prior to such child’s adoption.”;

On page 6, after line 28, by inserting:

“Sec. 3. K.S.A. 38-1635 is hereby amended to read as follows: 38-1635. (a) Except as provided in subsection (b), each county or district attorney may adopt a policy and establish guidelines for an immediate intervention program by which a respondent may avoid prosecution as a juvenile offender. In addition to the county or district attorney adopting policies and guidelines for the immediate intervention programs, the court, the county or district attorney and the director of the intake and assessment center, pursuant to a written agreement, may develop local programs to:

(1) Provide for the direct referral of cases by the county or district attorney or the intake and assessment worker, or both, to youth courts, restorative justice centers, citizen review boards, hearing officers, or other local programs as sanctioned by the court.

(2) Allow intake and assessment workers to issue a summons, as defined in subsection (e).

(3) Allow the intake and assessment centers to directly purchase services for the juveniles and the juvenile’s family.

(4) Allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and will not be dangerous to self or others.

(b) An immediate intervention program shall provide that a respondent is ineligible for such program if the respondent ~~has been previously adjudicated to be a juvenile offender, or~~ faces pending charges as a juvenile offender, for committing acts which, if committed by an adult, would constitute:

(1) A violation of K.S.A. 8-1567 and amendments thereto and the respondent: (A) Has previously participated in an immediate intervention program instead of prosecution of a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute; (B) has previously been adjudicated of a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death; or

(2) a violation of an off-grid crime, a ~~person felony, or a felony or misdemeanor committed when the respondent was illegally possessing a firearm or using a deadly weapon in the commission of such crime severity level 1, 2 or 3 felony for nondrug crimes or drug severity level 1 or 2 felony for drug crimes.~~

(c) An immediate intervention program may include a stipulation, agreed to by the respondent, the respondent’s attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the respondent fails to fulfill the terms of the specific immediate intervention agreement and the immediate intervention proceedings are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts.

(d) The county or district attorney may require the parent or guardian of a juvenile offender to be a part of the immediate intervention program for the juvenile offender.

(e) “Summons” means a written order issued by an intake and assessment worker directing that a respondent appear before a designated court at a stated time and place and answer to a charge pending against the respondent.

(f) The provisions of this section shall not be applicable in judicial districts that adopt district court rules pursuant to K.S.A. 20-342, and amendments thereto, for the administration of immediate intervention programs by the district court.”;

And by renumbering sections accordingly;

Also on page 6, in line 29, after “38-1508” by inserting “and 38-1635”; also in line 29, by striking “2002” and inserting “2003”;

On page 1, in the title, in line 13, before "amending" by inserting "relating to immediate intervention programs;"; also in line 13, after "38-1508" by inserting "and 38-1635"; also in line 13, by striking "2002" and inserting "2003";

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

WARD LOYD
THOMAS C. OWENS
JIM WARD
Conferees on part of House

JOHN VRATIL
BARBARA P. ALLEN
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 67**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 141**, 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 6, by striking lines 19 through 43;

By striking all on page 7;

On page 8, by striking lines 1 through 29 and inserting the following:

"Sec. 10. On and after July 1, 2005, K.S.A. 21-3110, as amended by section 1 of 2004 House Substitute for Senate Bill No. 136, is hereby amended to read as follows: 21-3110. The following definitions shall apply when the words and phrases defined are used in this code, except when a particular context clearly requires a different meaning.

- (1) "Act" includes a failure or omission to take action.
- (2) "Another" means a person or persons as defined in this code other than the person whose act is claimed to be criminal.
- (3) "Conduct" means an act or a series of acts, and the accompanying mental state.
- (4) "Conviction" includes a judgment of guilt entered upon a plea of guilty.
- (5) "Deception" means knowingly and willfully making a false statement or representation, express or implied, pertaining to a present or past existing fact.
- (6) To "deprive permanently" means to:
 - (a) Take from the owner the possession, use or benefit of property, without an intent to restore the same; or
 - (b) Retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
 - (c) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.
- (7) "Dwelling" means a building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.
- (8) "Forceible felony" includes any treason, murder, voluntary manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery, aggravated sodomy and any other felony which involves the use or threat of physical force or violence against any person.

(9) "Intent to defraud" means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.

(10) "Law enforcement officer" means:

(a) Any person who by virtue of such person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes;

(b) any officer of the Kansas department of corrections or, for the purposes of K.S.A. 21-3409, 21-3411 and 21-3415, and amendments thereto, any employee of the Kansas department of corrections; or

(c) any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

(11) "Obtain" means to bring about a transfer of interest in or possession of property, whether to the offender or to another.

(12) "Obtains or exerts control" over property includes but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.

(13) "Owner" means a person who has any interest in property.

(14) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

(15) "Personal property" means goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.

(16) "Property" means anything of value, tangible or intangible, real or personal.

(17) "Prosecution" means all legal proceedings by which a person's liability for a crime is determined.

(18) "Public employee" is a person employed by or acting for the state or by or for a county, municipality or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a "public officer."

(19) "Public officer" includes the following, whether elected or appointed:

(a) An executive or administrative officer of the state, or a county, municipality or other subdivision or governmental instrumentality of or within the state.

(b) A member of the legislature or of a governing board of a county, municipality, or other subdivision of or within the state.

(c) A judicial officer, which shall include a judge of the district court, juror, master or any other person appointed by a judge or court to hear or determine a cause or controversy.

(d) A hearing officer or *presiding officer*, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer.

(e) A law enforcement officer.

(f) Any other person exercising the functions of a public officer under color of right.

(20) "Real property" or "real estate" means every estate, interest, and right in lands, tenements and hereditaments.

(21) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise another to commit a crime.

(22) "State" or "this state" means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water. "Other state" means any state or territory of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(23) "Stolen property" means property over which control has been obtained by theft.

(24) "Threat" means a communicated intent to inflict physical or other harm on any person or on property.

(25) "Written instrument" means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trade-

mark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.”;

Also on page 8, in line 43, by striking “2007” and inserting “2005”;

On page 17, in line 25, by striking “2007” and inserting “2005”;

On page 20, in line 29, by striking “2007” and inserting “2005”;

On page 21, in line 6, by striking “2007” and inserting “2005”;

On page 22, in line 25, by striking “2007” and inserting “2005”; in line 43, by striking “2007” and inserting “2005”;

On page 25, in line 1, by striking “2007” and inserting “2005”;

On page 26, in line 23, by striking “2007” and inserting “2005”;

On page 28, in line 2, by striking “2007” and inserting “2005”; in line 21, by striking “2007” and inserting “2005”;

On page 41, in line 6, by striking “state board of phar-”; by striking all in lines 7 and 8; in line 9, by striking all before “Kansas” where it appears the first time; by striking all in lines 16 through 18; in line 19, by striking all before “and”; in line 27, by striking all after the stricken material; by striking all in line 28; in line 29, by striking all before “and”; in line 30, by striking “, board of accountancy”; in line 37, by striking “All” and inserting “Except for administrative hearings conducted by the state board of pharmacy, Kansas dental board, state board of veterinary examiners, behavioral sciences regulatory board, state board of cosmetology, Kansas real estate commission, real estate appraisal board, state board of mortuary arts, Kansas board of barbering, board of nursing, Kansas board of examiners in fitting and dispensing of hearing aids, board of examiners in optometry, state board of healing arts, Kansas state banking board, state department of credit unions, office of the securities commissioner of Kansas and state board of technical professions, all”;

On page 42, after line 6, by inserting the following:

“(i) With respect to hearings before the secretary of agriculture in accordance with the Kansas administrative procedures act, the secretary of agriculture or a hearing officer from the office of administrative hearings shall be the presiding officer unless the party requests that the matter, for which a hearing has been scheduled or for which a right to a hearing exists, be heard by a hearing officer appointed by the secretary.”; in line 7, by striking “(i)” and inserting “(j)”;

On page 55, in line 33, before the period by inserting “unless at the party’s request pursuant to K.S.A. 75-37,121, and amendments thereto”;

On page 56, in line 7, after “21-3110,” by inserting “as amended by section 1 of 2004 House Substitute for Senate Bill No. 136, 36-509,”; also in line 7, after “40-2,137,” by inserting “65-163, 65-163a, 65-525, 65-526, 65-673,”; also in line 7, after “65-786,” by inserting “65-2305, 65-3483, 65-3488, 65-3490,”; in line 11, by striking “36-509,”; by striking all in line 12; in line 13, by striking “3490,”;

On page 1, in the title, in line 19, following “21-3110,” by inserting “as amended by section 1 of 2004 House Substitute for Senate Bill No. 136,”;

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

MICHAEL O’NEAL
DOUG PATTERSON
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 141**.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Corbin, Downey, Emler, Gilstrap, Goodwin, Helgeson, Jackson, Jordan, Kerr, Morris, Oleen, Pugh, Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: Clark, Donovan, Haley, Hensley, Huelskamp, Journey, Lee, Lyon, O'Connor, Salmans, Taddiken, Tyson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 272**, 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. 272, as follows:

On page 8, in line 17, after "interest" by inserting "immediately before or"; in line 18, by striking "including" and inserting "to the extent of that interest or title. The medical assistance estate includes, without limitation"; in line 19, by striking "individual" and inserting "recipient";

On page 9, in line 25, before the semicolon, by inserting "or settlement action taken in lieu of foreclosure";

On page 11, following line 32, by inserting the following:

"Sec. 3. K.S.A. 2003 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of aging.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for the mentally retarded" means any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by mental retardation or related conditions need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-day-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services pro-

vided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means any residence or facility caring for not more than eight individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than eight-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) "Licensing agency" means the secretary of aging.

(17) "Skilled nursing home" means a nursing facility.

(18) "Intermediate nursing care home" means a nursing facility.

(19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) "Operator" means an individual who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.

(22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility, toileting.

(23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential health care facility.

(27) "*Paid nutrition assistant*" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. 483.152, 42 C.F.R. 483.160 and paragraph (h) of 42 C.F.R. 483.35, in effect on October 27, 2003, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 *et seq.* and amendments thereto and which provide services only to hospice patients.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 4. K.S.A. 2003 Supp. 39-936 is hereby amended to read as follows: 39-936. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident's file. No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person or persons shall be in attendance at all times upon residents receiving accommodation, board, care, training or treatment in adult care homes. The licensing agency may establish necessary standards and rules and

regulations prescribing the number, qualifications, training, standards of conduct and integrity for such qualified person or persons attendant upon the residents.

(c) (1) The licensing agency shall require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the secretary of health and environment or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the secretary of health and environment shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the secretary of health and environment. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the secretary of health and environment under subsection (c)(2). *Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, which meets the requirements of 42 C.F.R. § 483.160.*

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents *and who do not meet the definition of paid nutrition assistance under paragraph (a)(27) of K.S.A. 39-923, and amendments thereto* after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the secretary of health and environment shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the secretary of health and environment, shall be reasonably related to the duties performed by unlicensed employees of adult

care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the secretary of health and environment to all unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications.

(3) The secretary of health and environment shall fix, charge and collect a fee to cover all or any part of the costs of the licensing agency under this subsection (c). The fee shall be fixed by rules and regulations of the secretary of health and environment. The fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(4) The secretary of health and environment shall establish a state registry containing information about unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications in compliance with the requirements pursuant to PL 100-203, Subtitle C, as amended November 5, 1990.

(5) No adult care home shall use an individual as an unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed employee provided direct, individual care to residents to complete an approved refresher course. The secretary of health and environment shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

(d) Any person who has been employed as an unlicensed employee of an adult care home in another state may be so employed in this state without an examination if the secretary of health and environment determines that such other state requires training or examination, or both, for such employees at least equal to that required by this state.

(e) All medical care and treatment shall be given under the direction of a physician authorized to practice under the laws of this state and shall be provided promptly as needed.

(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

Sec. 5. K.S.A. 2003 Supp. 76-381 is hereby amended to read as follows: 76-381. As used in K.S.A. 76-380 through 76-386 and amendments thereto:

(a) "Act" means the medical student loan act;

(b) "approved postgraduate residency training program" means a residency training program in general pediatrics, general internal medicine, family medicine, family practice or emergency medicine;

(c) "service commitment area" means (1) any community within any county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county, (2) any state medical care facility or institution, (3) any medical center operated by the veterans administration of the United States, or (4) the full-time faculty of the university of Kansas school of medicine in family medicine or family practice; or (5) any community within Wyandotte county for purposes of any practice obligation under an agreement entered into by a person who is enrolled for the first time after July 1, 2004, in a course of study leading to the medical degree; and

(d) "state medical care facility or institution" includes, but is not limited to, the Kansas state school for the visually handicapped, the Kansas state school for the deaf, any institution under the secretary of social and rehabilitation services, as defined by subsection (b) of K.S.A. 76-12a01 and amendments thereto, any institution under the commissioner of juvenile justice as defined by K.S.A. 38-1602, and amendments thereto, the Kansas soldiers' home, the Kansas veterans' home and any correctional institution under the secretary of corrections, as defined by subsection (d) of K.S.A. 75-5202 and amendments thereto, but shall not include any state educational institution under the state board of regents, as defined by subsection (a) of K.S.A. 76-711 and amendments thereto, except as specifically provided by statute.

Sec. 6. K.S.A. 74-3266 is hereby amended to read as follows: 74-3266. (a) An agreement entered into by the state board of regents and a Kansas resident who is an undergraduate student enrolled in or admitted to an accredited school of osteopathic medicine in a course of instruction leading to the degree of doctor of osteopathy for the awarding of an osteopathic medical service scholarship shall require that the person receiving the scholarship:

(1) Complete the required course of instruction and receive the degree of doctor of osteopathy;

(2) apply for and obtain a license to practice medicine and surgery in Kansas;

(3) except as otherwise provided in subsection (c), engage in the practice of medicine and surgery in Kansas on a full-time basis for a period of 12 months for each year a scholarship was received or on a part-time basis for a period equivalent to 12 months, as determined by the state board of regents, for each year a scholarship was received;

(4) (A) with regard to persons entering into agreements prior to the effective date of this act, commence such full-time or part-time practice of medicine and surgery within nine months after licensure or within nine months after completion of an approved postgraduate residency training program and licensure, whichever is later, and continue such practice in Kansas for a consecutive period of months equal to the total number of months required under the agreement;

(B) with regard to persons entering into agreements after the effective date of this act, commence such full-time or part-time practice of medicine and surgery

within six months after licensure or within six months after completion of an approved postgraduate residency training program and licensure, whichever is later, and continue such practice in Kansas for a consecutive period of months equal to the total number of months required under the agreement;

(5) agree that the service commitment for each agreement entered into under this section is in addition to the service commitment contained in any other agreement which has been or may be entered into under this section for the purpose of obtaining scholarship aid;

(6) maintain records and make reports to the state board of regents to document satisfaction of the obligation under such agreement to engage in the full-time or part-time practice of medicine and surgery in Kansas and to continue such practice for a consecutive period of months equal to the total number of months required under the agreement; and

(7) repay amounts to the state board of regents as provided in K.S.A. 74-3267, and amendments thereto, upon failure to engage in the full-time or part-time practice of medicine and surgery in Kansas for the required period of time under any agreement entered into as provided in this section.

(b) Except as otherwise provided in subsection (c), each Kansas student who enters into an agreement as provided in this section shall serve the practice obligations incurred by such student under the agreement in a rural area or a medically underserved area.

(c) (1) A person awarded an osteopathic medical service scholarship may satisfy the obligation to engage in the practice of medicine and surgery under an agreement entered into pursuant to this section, even though such person is engaged in practice in an area not designated a rural area or a medically underserved area, through employment by the state of Kansas on a part-time basis, which employment has been approved by the state board of regents, for the practice of medicine and surgery at any state medical care facility or institution.

(2) For the purposes of this subsection, service or employment at a state medical care facility or institution on a part-time basis of at least the equivalent of $\frac{1}{2}$ time shall satisfy the obligation to engage in the full-time practice of medicine and surgery in Kansas for a period of 12 months for each year a scholarship was received as provided in an agreement entered into under this section.

(d) For the purposes of the osteopathic medical service scholarship program (1) "state medical care facility or institution" has the meaning ascribed thereto in subsection (k) of K.S.A. 76-375, and amendments thereto; (2) "approved postgraduate residency training program" means a residency training program in general internal medicine, pediatrics, family medicine, family practice, obstetrics and gynecology, or emergency medicine; (3) "medically underserved area" means a practice location designated medically underserved by the state board of regents; and (4) "rural area" ~~means any county of this state other than Douglas, Johnson, Sedgwick, Shawnee and Wyandotte counties~~ *has the meaning ascribed to "service commitment area" by subsection (c) of K.S.A. 2003 Supp. 76-381, and amendments thereto.*;

And by renumbering sections accordingly;

Also on page 11, in line 33, by striking "is" and inserting "and 74-3266 and K.S.A. 2003 Supp. 39-923, 39-936 and 76-381 are";

On page 1, in the title, in line 9, after "concerning" by inserting "health care; relating to"; also in line 9, after "medical" by inserting "and other care and services"; in line 12, following the semicolon, by inserting "relating to adult care home paid nutrition assistants; concerning financial assistance requirements under the

medical student loan act;"; also in line 12, following "39-709" by inserting "and 74-3266 and K.S.A. 2003 Supp. 39-923, 39-936 and 76-381"; also in line 12, by striking "section" and inserting "sections".

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

MELVIN NEUFELD
BOB BETHELL
BILL FEUERBORN
Conferees on part of House

PETE BRUNGARDT
STAN CLARK
MARK GILSTRAP
Conferees on part of Senate

Senator Brungardt moved the Senate adopt the Conference Committee Report on **H Sub for SB 272**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2347**, 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 50, in line 39, by striking "two years" and inserting "one year";
On page 57, in line 6, by striking "\$25,000" and inserting "\$25,000";
On page 87, by striking all in lines 28 through 43;
On page 88, by striking all in lines 1 through 30;
And by renumbering the remaining sections accordingly;
On page 90, in line 1, by striking "17-1264, 17-1265,"; in line 2, by striking " , 74-8229";
On page 1, in the title, in line 14, by striking " , 74-8229";

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

JOHN VRATIL
EDWARD PUGH
GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
DOUG PATTERSON
JANICE L. PAULS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2347**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SENATE Substitute for HB 2404**, 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. 2404, as follows:

On page 2, in line 13, after "The" by inserting "division shall assign a"; also in line 13, by striking "assigned"; in line 14, by striking "may be the applicant's social security number"; in line 15, by striking "if the applicant so requests in writing";

On page 4, in line 37, after "The" by inserting "division shall assign a"; also in line 37, by striking "as-"; in line 38, by striking "signed"; also in line 38, by striking "may be the applicant's social security"; in line 39, by striking "number"; also in line 39, by striking "if the applicant so requests"; in line 40, by striking "in writing";

On page 5, after line 21 by inserting the following:

"Sec. 4. K.S.A. 2003 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, ~~which, if the licensee so requests in writing, may be the licensee's social security number;~~ the name, date of birth, residence address, and a brief description of the licensee, a colored photograph of the licensee, a facsimile of the signature of the licensee or a space upon which the licensee shall write such licensee's usual signature with pen and ink immediately upon receipt of the license and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. On and after July 1, 2004, the secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, on or after July 1, 2004, no driver's license issued by the division shall be valid until a colored photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$4 and upon payment of such fee the division shall cause a colored photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing a colored photograph of such licensee. A driver's license which does not contain a colored photograph of the licensee as required may be issued to persons exempted from such requirement. Any such license shall be valid for the purposes of the motor vehicle drivers' license act and the division shall set forth upon such driver's license the words "valid without photo." Any person who is outside the state and for whom the division provides for renewal of the driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on such person's driver's license. Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to that effect and such person shall then be exempt from the picture requirements of this section.

(b) All Kansas drivers' licenses issued to any person 16 years of age or older shall contain a form which provides a statement for making a gift of all or any part of the body of the licensee in accordance with the uniform anatomical gift act, except as otherwise provided by this subsection. The statement to be effective shall be signed by the licensee in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make a valid gift. Any valid gift statement executed prior to July 1, 1994, shall remain effective until invalidated. The word "Donor" shall be placed on the front of a licensee's driver's license, indicating that the statement for making an anatomical gift under this subsection has been executed by such licensee.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are deaf or hard of hearing and 21 years of age or older.

Sec. 5. K.S.A. 2003 Supp. 8-2,135 is hereby amended to read as follows: 8-2,135. (a) The commercial driver's license shall be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamper proof. It shall include, but not be limited to, the following information:

- (1) The requirements set out in K.S.A. 8-243, and amendments thereto;
- (2) ~~the person's social security number or any~~ a number or identifier deemed appropriate by the state licensing authority;
- (3) the class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restriction;
- (4) the name of this state; and
- (5) the dates between which the license is valid.

(b) Commercial drivers' licenses issued pursuant to K.S.A. 8-234b, and amendments thereto, may be issued with the following endorsements or restrictions; and the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles, except motorcycles and vehicles which require an endorsement, unless the proper endorsement appears on the license;

- (1) "H"—authorizes the driver to drive a vehicle transporting hazardous materials;
- (2) "L"—restricts the driver to vehicles not equipped with airbrakes;
- (3) "T"—authorizes driving double and triple trailers;
- (4) "P"—authorizes driving vehicles carrying passengers;
- (5) "N"—authorizes driving tank vehicles;
- (6) "X"—represents a combination of hazardous materials and tank vehicle endorsements;
- (7) "S"—authorizes driving school buses.

(c) Before issuing a commercial driver's license, the division must obtain driving record information through the commercial driver license information system, the national driver register and from each state in which the person has been licensed.

(d) Within 10 days after issuing a commercial driver's license, the division shall notify the commercial driver license information system of that fact, providing all information required to ensure identification of the person.

(e) All original licenses issued after April 1, 1992, shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application. All renewals thereof shall expire on every fourth anniversary of the date of birth of the licensee. No driver's license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire at midnight on every fourth anniversary of the date of birth of the applicant. At least 30 days prior to the expiration of a person's license, the division shall mail a notice of expiration or renewal application to such person at the address shown on the license.

(f) When applying for renewal of a commercial driver's license, the applicant must complete the test required in subsection (e) of K.S.A. 8-247, and amendments thereto, and the application form required by subsection (b) of K.S.A. 8-2,134, and amendments thereto, providing updated information and required certifications and if the applicant wishes to retain a hazardous materials endorsement, the applicant must take and pass the test for such endorsement.

New Sec. 6. (a) Beginning July 1, 2004, or upon final determination by the transportation security administration of the date for implementation of the requirements of 49 C.F.R. 1572, whichever is later, the division shall not issue, renew, upgrade or transfer a hazardous materials endorsement for a commercial driver's license to any person authorizing

that person to operate a commercial motor vehicle transporting a hazardous material in commerce unless the individual complies with the requirements of 49 C.F.R. 1572.

(b) At least 180 days before the expiration date of a commercial driver's license or hazardous materials endorsement, the division shall notify the holder of a hazardous materials endorsement that the person must pass a transportation security administration security screening process, 49 C.F.R. 1572, as part of any application for renewal of the hazardous materials endorsement. The notice must advise the person that, in order to expedite the security screening process, the person should file a renewal application as soon as possible, but not later than 90 days before the date of expiration of the endorsement. Any person who does not successfully complete the security screening process, shall not be issued a hazardous materials endorsement.

(c) An individual must submit fingerprints, in a form and manner specified by the division, when such individual applies to obtain, renew or transfer a hazardous materials endorsement for a commercial driver's license. A fee not to exceed \$100 shall be charged to such individual for collecting the fingerprints and generating the individual's criminal history.

(d) The divisions shall revoke a person's hazardous materials endorsement if the person does not meet the standards for security threat assessment under 49 C.F.R. 1572.

(e) For the purpose of this section "revoke" means the process by which the division cancels, suspends, withdraws, annuls or disqualifies a hazardous material endorsement.

(f) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.;

And by renumbering the remaining sections accordingly;

Also on page 5, in line 22, after "8-240" by inserting ", 8-243, 8-2,135";

On page 1, in the title, in line 9, after "licenses" by inserting ", permits"; in line 11, after the semicolon by inserting "relating to hazardous material endorsements;"; in line 12, after "8-240" by inserting ", 8-243, 8-2,135";

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

JOHN VRATIL
EDWARD W. PUGH
GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
DOUG PATTERSON
JANICE L. PAULS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **S Sub for HB 2404**.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Journey.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2658**, 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 2, by striking all in lines 24 through 43;

On page 3, by striking all in line 1;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 15, by striking all after “panel”; in line 16, by striking all before the period;

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

SUSAN WAGLE
JIM BARNETT
Conferees on part of Senate

JIM MORRISON
WILLA DECASTRO
NANCY A. KIRK
Conferees on part of House

Senator Wagle moved the Senate adopt the Conference Committee Report on **HB 2658**.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Journey.

The Conference Committee report was adopted.

REPORT ON ENROLLED BILLS

SB 304 reported correctly enrolled, properly signed and presented to the governor on April 30, 2004.

COMMITTEE OF THE WHOLE

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

On motion of Senator Corbin the following report was adopted:

Recommended **S Sub for HB 2937**, as amended by adoption of the committee report recommending a substitute bill in Committee of the Whole, Thursday, April 1, 2004, be amended by motion of Senator Umbarger on page 1, in line 33, by striking “\$100” and inserting “\$60”; in line 37, by striking “July 1” and inserting “June 30”;

On page 3, in line 34, before the semicolon, by inserting “or the equivalent thereof”;

On page 5, in line 41, by striking “computed enrollment” and inserting “number determined”;

On page 6, in line 12, following the semicolon, by inserting “and”; in line 16, by striking “.11” and inserting “.13”; following line 36, by inserting:

“Sec. 7. K.S.A. 74-4939 is hereby amended to read as follows: 74-4939. (1) Except as otherwise provided in this section, the provisions of K.S.A. 74-4919 and 74-4920, and amendments thereto, shall apply to employee and employer contributions and obligations.

(2) The employer contribution rate for participating employers who are eligible employers as specified in subsections (1), (2) and (3) of K.S.A. 74-4931 and amendments thereto shall be as certified by the board. Participating employers shall certify to the state board of education before September 15 of each year the anticipated total compensation to be paid during the next fiscal year to employees who are or are to become members. The state board of education shall transmit the information necessary to the division of the budget and the governor who shall include in the budget and budget document each year thereafter provisions for the transfer from the state general fund of sufficient sums to satisfy the participating employer’s obligation under this act. The director of accounts and reports shall make a transfer therefor to the system quarterly, at the same time such employee contributions are remitted by such participating employers. Such transfer from the general fund of sufficient sums to satisfy the participating employer’s obligation shall not include any adjustments for individual employee’s service in prior periods and any required payment by a participating employer pursuant to K.S.A. 74-4990 and amendments thereto and K.S.A. 74-49,126 and amendments thereto. The employer’s obligation for such adjustments shall

be paid by the participating employer. Transfers required by this subsection shall be provided for annually by act of the legislature.

(3) Participating employers who are eligible employers as specified in subsection (4) of K.S.A. 74-4931 and amendments thereto shall pay to the system employer contributions at a rate of contribution as certified by the board.

(4) Upon the effective date of this act, the transfers for the employer's obligation pursuant to subsection (2) for the quarter commencing on January 1, 1987, shall be made on July 1, 1987, together with interest thereon at the rate of 6.72% per annum from the date the payment would have been made as provided in this section immediately prior to this amendment until the date paid.”;

(5) *Upon the effective date of this act, the transfers for the employer's obligation pursuant to subsection (2) for the quarter commencing on January 1, 2005, shall be made on July 1, 2005, together with interest thereon at the rate of 8% per annum from the date the payment would have been made as provided in this section immediately prior to this amendment until the date paid.*

New Sec. 8. (a) Sections 8 through 12, and amendments thereto, shall be known and may be cited as the school-based budget law.

(b) The purpose of this law is to require school districts to prepare a budget which provides the taxpayers of the school district with as much information as possible at a building-level within the district.

(c) The requirements imposed by the school-based budget law shall be in addition to the requirements imposed pursuant to the general budget law.

New Sec. 9. As used in the school-based budget law:

(a) “Board” means the board of education of a school district.

(b) “Budget” or “school district budget” means the budget of the school district as a whole.

(c) “Sub-budget” means a budget for each school building in a school district.

(d) “School building” means any attendance center operated and maintained by the board. Each elementary school, junior high school, middle school and high school shall be counted as a separate attendance center even if two or more such schools are located at or in the same facility.

(e) “School districts” mean U.S.D. No. 305, U.S.D. No. 443, U.S.D. No. 453 and U.S.D. No. 501 and two other school districts designated by the state board of education, having an enrollment of less than 300 pupils.

New Sec. 10. (a) Based upon recommendations by the state department of education, the director of accounts and reports shall prepare and prescribe forms for the annual budget, summary of the proposed budget of school districts and the sub-budgets for school buildings in school districts. The state department of education shall make such recommendations after considering the best practices and standards established by the government finance officers association and the association of school business officials. Subject to subsection (i), such forms shall show the information required by the general budget law, school-based budget law and any other state or federal law necessary and proper to disclose complete information as to the financial condition of school districts, and the receipts and expenditures thereof, both past and anticipated.

(b) (1) Subject to subsection (i), the school district budget form shall include an aggregate listing of the amount of expenditures for salaries, wages and any fringe benefits for the following:

- (A) Administrators, listed by individual category;
- (B) persons employed full-time as teachers;
- (C) persons employed as teachers' aides;
- (D) special education teachers;
- (E) special education paraprofessionals;
- (F) other certified employees who are not employed full-time as teachers, listed by individual category, including but not limited to, nurses, librarians and counselors;
- (G) classified employees;
- (H) substitutes and other temporary employees; and
- (I) other positions designated by the state department of education.

(2) Subject to subsection (i), the school district budget form shall show the total amount of expenditures for salaries, wages and fringe benefits for persons listed in paragraph (1) of this subsection.

(3) Subject to subsection (i), the school district budget form shall show the amount of expenditures, in the aggregate for salaries, wages and fringe benefits for persons listed in paragraph (1) of this subsection from each fund of the district and from any federal funds. The form also shall show the total amount of expenditures for such salaries, wages and fringe benefits.

(4) The school district budget form shall show the number of employee positions specified in paragraph (1) of this subsection, except for substitute teachers.

(c) The school district budget form shall show as separate items estimated expenditures for district-wide purposes or programs and the estimated revenue for such expenditures, with the amount estimated to be received from each source separately stated. Items of expenditures and receipts required to be included on the budget form pursuant to this subsection shall include, but not be limited to:

(1) Central administrative costs of the district including operating and maintenance costs of the central office;

- (2) adult education;
- (3) adult supplementary education;
- (4) parent education;
- (5) driver training;
- (6) food service;
- (7) capital outlay;
- (8) summer school;
- (9) extraordinary school programs;
- (10) special liability expenses;
- (11) extraordinary growth facilities;
- (12) contingency reserve;
- (13) textbook and student materials;
- (14) transportation;
- (15) data processing;
- (16) bond and interest;
- (17) gifts and bequests;
- (18) student support;
- (19) instruction;
- (20) instructional staff support; and
- (21) student activities.

(d) Subject to subsection (i), expenditures for special education and related services shall be shown on the budget form of the district as follows:

(1) Except as provided by paragraph (2), a school district that obtains special education and related services pursuant to a cooperative agreement or an interlocal agreement shall show the expenditure as a transfer made at the district level in the central office budget;

(2) the board of directors of an interlocal and the sponsoring district of a cooperative shall show expenditures for special education and related services, using the format and coding developed by the department for a building sub-budget;

(3) a school district that provides its own special education and related services and which is not a party to an interlocal agreement or a cooperative agreement shall show expenditures on a district-wide basis using the format and coding developed by the department for a building sub-budget.

(e) Subject to subsection (i), the sub-budget form for each school building shall show the estimated amount of expenditures attributed to each school building from the:

- (1) General fund;
- (2) supplemental general fund;
- (3) bilingual education fund;
- (4) professional development fund; and
- (5) federal funds.

(f) (1) Subject to subsection (i), the sub-budget form for each school building shall include an aggregate listing of the amount of expenditures for salaries, wages and fringe benefits for the following persons employed at such building:

- (A) Administrators, listed by individual category;
- (B) persons employed full-time as teachers;
- (C) persons employed as teachers' aides;
- (D) special education teachers;
- (E) special education paraprofessionals;
- (F) other certified employees who are not employed full-time as teachers, listed by individual category, including but not limited to, nurses, librarians and counselors;
- (G) classified employees;
- (H) substitutes and other temporary employees; and
- (I) other positions designated by the state department of education.

(2) Subject to subsection (i), the sub-budget form for each school building shall show the total number of pupils, the number of special education pupils and the number of nonspecial education pupils at the building.

(3) Subject to the subsection (i), the sub-budget form for each school building shall show the pupil to (certified) teacher ratio.

(4) Subject to subsection (i), the sub-budget form for each school building shall show the total square footage of the building.

- (g) The summary of the proposed budget of the school district form shall include:
 - (1) An overview of the proposed budget of the school district and the budgetary process;
 - (2) a summary of the changes in the proposed budget from the previous budget year;
 - (3) a summary of the estimated expenditures to be made and revenues to be received in the ensuing budget year and the sources of such revenue;
 - (4) the total number of pupils in the district;
 - (5) the number of students by classification including, but not limited to, special education, bi-lingual, at-risk, minority and sex; and
 - (6) the internet website address for school building report cards compiled by the state department of education.

(h) Forms required by this section shall show any other information required by the state department of education.

(i) Each school district shall prepare its budgets and each sub-budget using the format and standard coding system of expenditures and receipts prescribed by the department pursuant to section 13, and amendments thereto.

(j) Any transfer from the general fund of the school district for a district-wide program shall be shown as an expenditure of such program and not as an expenditure attributable to the central office.

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

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

(m) All forms required by this section and tax levy forms shall be printed by the division of printing in such quantity as required by the director. The director shall deliver the forms for school districts to the clerk of the board of education of each school district.

(n) Subject to the provisions of subsection (i), expenditures for area vocational schools shall be shown on the budget form of the district as a transfer made at the district level in the central office budget.

New Sec. 11. School districts shall not be required to comply with the provisions of the school-based budget law unless the legislature appropriates moneys for the payment of the costs of such compliance by such districts. Such moneys shall be in addition to any state aid or moneys the state is otherwise required to provide to school districts.

New Sec. 12. The provisions of the school-based budget law shall expire on June 30, 2005.

New Sec. 13. (a) The state department of education shall design a budget and sub-budget format and a standard coding system to be used by school districts when preparing the budget and sub-budgets of the district as required by the school-based budget law.

(b) The forms shall be designed to show expenditures and receipts of the central office of the district using the same format and coding system as used to prepare the sub-budgets of the district.

(c) The forms shall be designed to show expenditures and receipts for operations and maintenance of each school building as a building-level expenditure in the sub-budget of such building using the same format and coding system to prepare the sub-budgets of the district.

Sec. 14. K.S.A. 2003 Supp. 72-8247 is hereby amended to read as follows: 72-8247. (a) On or before October 1 of each year, the board of education of each school district shall provide to a newspaper of general circulation within the district a statement showing the name, position ~~and~~, salary *and any fringe benefits* of the superintendent, deputy superintendents, assistant superintendents, directors, principals and any other administrator with district-wide responsibilities of such school district.

(b) The provisions of this section shall expire on June 30, 2006.

Sec. 15. K.S.A. 79-2925 is hereby amended to read as follows: 79-2925. (a) ~~This act K.S.A. 79-2925 through 79-2937, and amendments thereto, shall be known and may be cited as the general budget law.~~

(b) ~~Except as provided by this section, the general budget law shall apply to all taxing subdivisions or municipalities of the state, except.~~

(c) ~~The general budget law shall not apply to:~~

(1) Townships in counties having the county road unit system which have an annual expenditure of less than ~~two hundred dollars~~, \$200.

(2) Any money received by such taxing subdivision or municipality as a gift or bequest;

(3) Any revolving fund ~~set up established~~ for the operation of a municipal airport. Any city, board of park commissioners, or other agency designated and authorized to operate a municipal airport ~~is hereby authorized to set up~~ *may establish* a revolving fund for use as an operating fund, either out of the budget or out of the receipts from the operation of such airport, in an amount as may be reasonable and necessary as an operating fund for the efficient and business-like operation of such airport. The financial transactions of ~~said the~~ airport shall be audited in accordance with the minimum standard audit program prescribed by the director of accounts and reports as other municipal funds. Profits arising from the operation of the airport after the payment of all necessary operating expenses and the establishment of the revolving fund shall be applied to reduce the tax levy for the budgeted fund under which the operation of such airport is financed;

(4) Any special recreation facilities reserve ~~set up established~~ by the board of park commissioners in any city for the repair, replacement, or addition to the recreation facilities of such city. The financial transactions of ~~said the~~ recreation facilities shall be audited in accordance with the minimum standard audit program prescribed by the director of accounts and reports as other municipal funds. Profits arising from the coliseum events fund and the coliseum concessions, after the payment of all necessary expenses, and the establishment and maintenance of such special recreation facilities reserve shall be applied to reduce the tax levy for the budget fund under which the operation of such recreation facilities is financed; ~~and.~~

(5) Any special recreation facilities fund ~~set up established~~ by the board of county commissioners for the operation of a county coliseum. The financial transactions of the special recreation facilities fund shall be audited in accordance with the minimum standard audit program prescribed by the director of accounts and reports as other municipal funds. Moneys derived from the operation of a county coliseum and deposited in the special recreation facilities fund shall be applied to reduce the tax levy for the budget fund under which the operation of such county coliseum is financed.

~~(b) Whenever the term "fund" is used in this act it is intended to have reference to those funds which are~~

~~(d) As used in the budget law:~~

~~(1) "Fund" means any fund authorized by statute to be established. "Fund" is not intended to mean the individual budgeted items of a fund, but is intended to have reference to the total of such individual items.~~

~~(c) Whenever the term "director" is used in this act it shall mean the state director of property valuation.~~

(2) "Director" means the director of accounts and reports.

Sec. 16. K.S.A. 2003 Supp. 79-2926 is hereby amended to read as follows: 79-2926. (a) Subject to the provisions of subsection (b), the director of accounts and reports shall prepare and prescribe forms for the annual budgets of all taxing subdivisions or municipalities of the state. Such forms shall show the information required by this act necessary and proper to disclose complete information as to the financial condition of such taxing subdivision or municipality, and the receipts and expenditures thereof, both past and anticipated.

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

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

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

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

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

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

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

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

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

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

Also on page 6, by striking all in lines 37 through 43;

By striking all on pages 7 through 21;

On page 22, by striking all in lines 1 through 17;

By renumbering sections accordingly;

Also on page 22, in line 18, by striking "and 72-6440" and inserting ", 72-6440, 74-4939 and 79-2925"; in line 19, by striking all after "Supp."; in line 20, by striking all before "are" and inserting "72-6407, 72-8247 and 79-2926";

In the title, in line 10, by striking “and” and inserting a comma; in line 11, after “72-6414” by inserting “, 74-4939 and 79-2925”; in line 11, by striking all after “Supp.”; in line 12, by striking all before the second “and” and inserting “72-6407, 72-8247 and 79-2926”; in line 13, by striking all after “72-6440”; in line 14, by striking “and 79-3710a”, and **S Sub for HB 2937** be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **S Sub for HB 2937** was advanced to Final Action and roll call.

S Sub for HB 2937, An act concerning school districts; relating to school finance and the sources of revenue therefor; amending K.S.A. 72-6405, 72-6413, 72-6414, 74-4939 and 79-2925 and K.S.A. 2003 Supp. 72-6407, 72-8247 and 79-2926 and repealing the existing sections; also repealing K.S.A. 72-6440.

On roll call, the vote was: Yeas 23, Nays 16, Present and Passing 1, Absent or Not Voting 0.

Yeas: Allen, Barnett, Brownlee, Bunten, Clark, Corbin, Donovan, Emler, Jackson, Jordan, Journey, Kerr, Morris, O'Connor, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Barone, Betts, Brungardt, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Lee, Lyon, Oleen, Pugh, Steineger.

Present and Passing: Buhler.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Once again, this Senate has chosen to spend money it does not have. And it does it by the same old technique - borrowing. I cannot support such fiscal irresponsibility, especially since our credit card is already maxed out.—TIM HUELSKAMP

Today we have approved a plan that represents a significant amount of new money for schools. We have adopted a school finance plan that provides our schools with needed resources without forcing a tax increase on Kansans. It is imperative that the Senate take an education plan to conference, and move toward adjournment.

This \$72 million plan restores the base state aid per pupil to the levels prior to 2002. This plan adds \$60 per full-time equivalent student, and adds significant new money for at-risk, bilingual education, and special education students.

In fact, over the last decade the money that the Legislature has dedicated to education has ranged from \$0 new dollars in 2003, to a high of \$79.5 in 1998. This \$72 million package will be the second highest education plan that schools have received since 1995.

We recognize that our schools need help. By approving this funding plan, we have provided that assistance and avoided burdening the taxpayers of Kansas at this time of delicate economic recovery.

I vote in favor of this amendment for **S Sub for HB 2937**.—DAVE KERR

MR. PRESIDENT: I vote NO on **S Sub for HB 2937** because it employs smoke and mirror funding which will mandate a substantial tax increase next year to pay for education this year.

It is unconscionable to use ending balances to fund education when the state's ending balances are already in a very precarious situation. This is a travesty for the people of Kansas.

Voting for **S Sub for HB 2937** is a betrayal of the students of the small school and their communities across Kansas.—Janis Lee

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Morris the Senate nonconcurrred in the House amendments to **H Sub for SB 536** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Downey as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Schmidt, the Senate acceded to the request of the House for a conference on **HB 2585**.

The President appointed Senators Schmidt, Huelskamp and Lee as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HCR 5005**, 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.

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

WILLIAM G. MASON
DAN WILLIAMS
RICK REHORN
Conferees on part of House

On motion of Senator Vratil, the Senate adopted the conference committee report on **HCR 5005**, and requested a new conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a second Conference Committee on the part of the Senate on **HCR 5005**.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m, Saturday, May 1, 2004.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

