

# Journal of the House

EIGHTY-SEVENTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, June 9, 2017, 10:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Schwab in the chair.

The roll was called with 115 members present.

Rep. Neighbor was excused on verified illness.

Rep. Ruiz was excused on legislative business.

Reps. Arnberger, Aurand, Barker, Cox, Jacobs, Koesten and Sloan were excused on excused absence by the Speaker.

Prayer by Rep. Campbell:

May we all;  
Do a little bit better than the first time,  
Learn a little something from the worst times,  
Get a little stronger from the hurt times

May we all;  
Get to have a chance to ride the fast one  
Walk away wiser when we crashed one  
Keep hoping that the best one is the last one.  
And everyone said....Amen.

Words from the song "May We All"  
by Florida Georgia Line  
Songwriters: Rodney Clawson and Jamie Moore

The Pledge of Allegiance was led by Rep. Helgerson.

## MESSAGES FROM THE SENATE

The Senate announced the appointment of Senators Tyson, Kerschen, and Holland to replace Senators Longbine, Billinger, and Rogers as conferees on **HB 2111**.

The Senate accedes to the request of the House for a conference on **HB 2407** and has appointed Senators McGinn, Billinger and Kelly as second conferees on the part of the Senate.

The Senate adopts the Conference Committee report on **HB 2212**.

### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hineman, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 96**.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 96** submits the following report:

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

On page 1, by striking all in lines 13 through 34;

By striking all on pages 2 through 28;

On page 29, by striking all in lines 1 through 23; following line 23 by inserting:

"New Section 1. (a) The secretary of revenue may require, as a qualification for initial or continuing employment or contracting with the department of revenue, all persons having access to federal tax information received directly from the internal revenue service to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal arrests and convictions in this state or other jurisdictions. The secretary is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the secretary in the taking and processing of fingerprints of such persons and shall release all records of a person's arrests and convictions to the secretary.

(b) The secretary may use the information obtained from fingerprinting and a person's criminal history only for the purposes of verifying the identification of such person and in the official determination of the fitness of such person's qualification for initial or continuing employment. Disclosure or use of any information received by the secretary or a designee of the secretary for any purpose other than the purpose provided for in this section shall be a class A nonperson misdemeanor and shall constitute grounds for removal from office or termination of employment. Nothing in this section shall prevent disclosure of any information received by the secretary pursuant to this section to the post auditor in accordance with the provisions of the legislative post audit act.

(c) Whenever the secretary requires fingerprinting, any associated costs shall be paid by the agency or contractor.

Sec. 2. K.S.A. 2016 Supp. 74-2015 is hereby amended to read as follows: 74-2015. Within the division of vehicles, there shall be a supervisor of driver's license examiners and such driver's license examiners as may be needed. ~~Said~~ The supervisor and all such driver's license examiners shall be within the classified service under the Kansas civil service act, except as otherwise provided by the provisions of K.S.A. 75-2935(1)(x) or (1)(cc), and amendments thereto. Any person employed by a third party who has entered into a contract with the department of revenue pursuant to K.S.A. 8-129, and amendments thereto, to provide services of a driver's license examiner shall not be required to be within the classified service under the Kansas civil service act. Such

driver's license examiners shall make and conduct all examinations of applicants for operator's and chauffeur's licenses required by law, and shall exercise and enforce the licensing provisions of the operator's and chauffeur's licensing act, and shall perform such other duties as may be prescribed by law or by the director of vehicles. All such driver's license examiners are hereby vested with the power and authority of peace and police officers in the execution of the duties imposed upon them by this act and by the director of vehicles. The director of vehicles shall determine what, if any, vehicles, equipment and supplies, and insignia of office are needed by driver's license examiners. The property so determined to be needed shall be furnished without expense to such examiners. All property so furnished shall remain the property of the state and be strictly accounted for by each driver's license examiner. The secretary of revenue may adopt rules and regulations for the conduct and duties of driver's license examiners.

Sec. 3. K.S.A. 2016 Supp. 74-2015 is hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 through 9; in line 10, by striking all before the period and inserting "the department of revenue; relating to persons with access to federal tax information, fingerprinting; driver's license examiners, unclassified service; amending K.S.A. 2016 Supp. 74-2015 and repealing the existing section";

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

STEVEN C. JOHNSON

TOM PHILLIPS

TOM SAWYER

*Conferees on part of House*

CARYN TYSON

DAN KERSCHEN

TOM HOLLAND

*Conferees on part of Senate*

On motion of Rep. Johnson, the conference committee report on **SB 96** was adopted.

On roll call, the vote was: Yeas 67; Nays 48; Present but not voting: 0; Absent or not voting: 9.

Yeas: Alford, Awerkamp, Becker, Blex, Brim, Burris, Campbell, Claeys, Clark, Concannon, Corbet, E. Davis, Dierks, Dietrich, Dove, Elliott, Eplee, Esau, Finch, Francis, Gallagher, Garber, Good, Hawkins, Hibbard, Highland, Hineman, Hoffman, Houser, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Lakin, Landwehr, Lewis, Markley, Mason, Mastroni, Orr, Osterman, F. Patton, Phillips, R. Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Schreiber, Schwab, Seiwert, Smith, A., Smith, E., Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Waymaster, Wheeler, K. Williams.

Nays: Alcalá, Baker, Ballard, Bishop, Burroughs, Carlin, Carmichael, B. Carpenter, Clayton, Crum, S., Curtis, Deere, Delperdang, Ellis, Finney, Frownfelter, Gartner, Helgerson, Henderson, Highberger, Hodge, Holscher, Huebert, Humphries, Kuether, Lusk, Lusker, Miller, Murman, Ohaebosim, Ousley, Parker, Phelps, Pittman, Sawyer, Schroeder, Stogsdill, Trimmer, Vickrey, Victors, Ward, Weber, C., Weigel, Whipple,

Whitmer, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Arnberger, Aurand, Barker, Cox, Jacobs, Koesten, Neighbor, Ruiz, Sloan.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 126** 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 Further Amended by House Committee as follows:

On page 1, by striking all in lines 4 through 34;

By striking all on page 2;

On page 3, by striking all in lines 1 through 39; following line 39, by inserting:

"Section 1. (a) The secretary for children and families shall establish a child welfare system task force to study the child welfare system in the state of Kansas. The Kansas department for children and families shall provide administrative assistance to facilitate organization and meetings of any working group convened by the task force. The department shall provide assistance to working groups to prepare and publish meeting agendas, public notices, meeting minutes and any research, data or information requested by a working group.

(b) The child welfare system task force shall consist of the following members, each to be appointed by the respective appointing authority on or before July 15, 2017:

- (1) The chairperson of the senate standing committee on public health and welfare;
- (2) the vice-chairperson of the senate standing committee on public health and welfare;
- (3) the ranking minority member of the senate standing committee on public health and welfare;
- (4) the chairperson of the house standing committee on children and seniors;
- (5) the vice-chairperson of the house standing committee on children and seniors;
- (6) the ranking minority member of the house standing committee on children and seniors;
- (7) the secretary for children and families or the secretary's designee, who shall be a non-voting member;
- (8) the director of prevention and protection services for the Kansas department for children and families, who shall be a non-voting member;
- (9) one representative from each entity that contracts with the Kansas department for children and families to provide foster care, family preservation, reintegration and permanency placement services, appointed by each such entity, each of whom shall be a non-voting member;
- (10) one member appointed by the chief justice of the supreme court;
- (11) one representative of Kansas court-appointed special advocates, appointed by the chief justice of the supreme court;
- (12) one member of a citizen review board established pursuant to the revised Kansas code for care of children, appointed by the chief justice of the supreme court;
- (13) one member representing a foster parent organization, appointed by the

judicial council;

(14) one guardian ad litem with experience representing children in child in need of care cases, appointed by the judicial council;

(15) one family law attorney with experience providing legal services to parents and grandparents in child in need of care cases, appointed by the judicial council;

(16) one social worker licensed by the behavioral sciences regulatory board, appointed by the judicial council;

(17) one member of the state child death review board established by K.S.A. 22a-243, and amendments thereto, appointed by the board;

(18) one county or district attorney with experience in child in need of care cases, appointed by the Kansas county and district attorneys association; and

(19) one law enforcement officer, appointed by the Kansas association of chiefs of police.

(c) (1) The chairperson of the house standing committee on children and seniors shall serve as the first chairperson of the child welfare system task force and the chairperson of the senate standing committee on public health and welfare shall serve as the first vice-chairperson of the task force. The position of chairperson and vice-chairperson shall alternate annually upon the first meeting of the task force in each calendar year.

(2) The child welfare system task force may meet in an open meeting at any time and at any place within the state of Kansas upon the call of the chairperson. The task force shall meet at least six times per calendar year.

(3) A majority of the voting members of the child welfare system task force constitute a quorum. Any action by the task force shall be by motion adopted by a majority of voting members present when there is a quorum.

(4) Any vacancy on the child welfare system task force shall be filled by appointment in the manner prescribed in this section for the original appointment.

(d) (1) The child welfare system task force shall convene working groups to study the following topics: The general administration of child welfare by the Kansas department for children and families; protective services; family preservation; reintegration; foster care; and permanency placement.

(2) On or before August 15, 2017, the chairperson and vice-chairperson of the child welfare system task force and the ranking minority members appointed under subsections (b)(3) and (b)(6) shall jointly appoint the chairperson and vice-chairperson of each working group from the members of the task force. The chairperson and vice-chairperson of each working group shall jointly appoint members to the working group, each working group consisting of not more than seven non-task force members and not fewer than two task force members. Any non-task force member appointed to a working group shall possess specific expertise related to the working group's assigned topic of study.

(e) The child welfare system task force and each working group convened by the task force shall study the following topics:

(1) The level of oversight and supervision by the Kansas department for children and families over each entity that contracts with the Kansas department for children and families to provide reintegration, foster care and adoption services;

(2) the duties, responsibilities and contributions of state agencies, nongovernmental entities and service providers that provide child welfare services in the state of Kansas;

(3) the level of access to child welfare services, including, but not limited to, health and mental health services and community-based services, in the state of Kansas;

(4) the increasing number of children in the child welfare system and contributing factors;

(5) the licensing standards for case managers working in the child welfare system; and

(6) any other topic the child welfare system task force or working group deems necessary or appropriate.

(f) The child welfare system task force and each working group convened by the task force shall consider, at a minimum, United States department of health and human services child and family services reviews and child and family services plans and reports relating to foster care prepared by the division of post audit, the 2015 special committee on foster care adequacy and the 2016 special committee on foster care adequacy.

(g) The child welfare system task force shall advise and consult with citizen review boards established pursuant to the revised Kansas code for care of children in conducting the study required by this section.

(h) The Kansas department for children and families shall, upon request by the child welfare system task force, provide data and information relating to the child welfare system in the state of Kansas that is not otherwise prohibited or restricted from disclosure by state or federal law, including conditions imposed by federal law or rules and regulations for participation in federal programs administered by the secretary for children and families.

(i) The child welfare system task force shall submit a preliminary progress report to the legislature detailing the task force's study under this section on or before January 8, 2018, and a final report to the legislature detailing the task force's study on or before January 14, 2019.

(j) The child welfare system task force's report shall include recommended improvements regarding the safety and well-being of children in the child welfare system in the state of Kansas, including recommended changes to current law, rules and regulations and child welfare system processes, whether an ongoing task force or similar advisory or oversight entity consisting of legislators, attorneys in the area of family law, judges, foster parents, parents with reintegrated children and other interested parties would aid in addressing child welfare system concerns and any other topics the child welfare system task force deems appropriate.

(k) Staff of the office of revisor of statutes, the legislative research department and the division of legislative administrative services shall provide assistance as may be requested by the child welfare system task force, including assistance to a legislative task force member serving on a working group, subject to approval by the legislative coordinating council.

(l) (1) Subject to approval by the legislative coordinating council, members of the child welfare system task force attending meetings authorized by the task force shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto, except that task force members who are employed by a state agency shall be reimbursed by such state agency.

(2) Non-task force members of working groups convened by the child welfare system task force attending meetings of such working groups shall be paid by the

Kansas department for children and families amounts provided in K.S.A. 75-3223(e), and amendments thereto, except that non-task force members who are employed by a state agency shall be reimbursed by such state agency.

(m) The provisions of this section shall expire on June 30, 2019.";

On page 1, in the title, in line 1, by striking all after "the" and inserting "child welfare system task force; concerning the study of the child welfare system in the state of Kansas; report to the legislature.";

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

STEPHEN ALFORD

LINDA GALLAGHER

JARROD OUSLEY

*Conferees on part of House*

VICKI SCHMIDT

BARBARA BOLLIER

LAURA KELLY

*Conferees on part of Senate*

On motion of Rep. Alford, the conference committee report on **H Sub for SB 126** was adopted.

On roll call, the vote was: Yeas 105; Nays 10; Present but not voting: 0; Absent or not voting: 9.

Yeas: Alcalá, Alford, Baker, Ballard, Becker, Bishop, Blex, Brim, Burroughs, Campbell, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Holscher, Houser, Huebert, Humphries, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Kuether, Lakin, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Seiwert, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimmer, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, K. Williams, Wilson, Winn, Wolfe Moore.

Nays: Awerkamp, Burris, Ellis, Garber, Hoffman, R. Powell, Schroeder, Schwab, Vickrey, Whitmer.

Present but not voting: None.

Absent or not voting: Arnberger, Aurand, Barker, Cox, Jacobs, Koesten, Neighbor, Ruiz, Sloan.

## **REPORT ON ENGROSSED BILLS**

**HB 2426** reported correctly engrossed June 8, 2017.

## **REPORT ON ENROLLED BILLS**

**HB 2079** reported correctly enrolled, properly signed and presented to the Governor on June 9, 2017.

On motion of Rep. Hineman, the House recessed until 4:00 p.m.

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AFTERNOON SESSION

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

**MESSAGES FROM THE GOVERNOR**

**HB 2092, S Sub for HB 2132** approved on June 9, 2017

**MESSAGES FROM THE SENATE**

The Senate concurs in House amendments to **H Sub for SB 86**.

The Senate adopts the Conference Committee report on **SB 96**.

The Senate adopts the Conference Committee report on **H Sub for SB 126**.

Announcing passage of **HB 2426**.

The Senate nonconcurrs in House amendments to **H Sub for SB 109**, requests a conference and has appointed Senators McGinn, Billinger and Kelly as conferees on the part of the Senate.

**INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Hineman, the House acceded to the request of the Senate for a conference on **H Sub for SB 109**.

Speaker pro tem Schwab thereupon appointed Reps. Waymaster, Davis and Wolfe Moore as conferees on the part of the House.

**REPORT ON ENROLLED BILLS**

**Sub HB 2230, HB 2313, HB 2409** reported correctly enrolled, properly signed and presented to the Governor on June 9, 2017.

On motion of Rep. Hineman, the House adjourned until 10:00 a.m., Saturday, June 10, 2017.



In The House Of Representatives  
Of The State Of Kansas

Protest of House Minority Leader Jim Ward  
Against the Conference Committee Report for Senate Bill 19  
June 6, 2017

Mr. Speaker: I hereby exercise my right under Article 2, Section 10, of the Kansas Constitution to protest **the Conference Committee Report for Senate Bill 19 (“CCR for SB 19”)**.

The Kansas Constitution in Article 6, Section 6, subsection (b) provides “[t]he legislature shall make suitable provision for the finance of the educational interests of the state.” Over the last 30 years the Kansas Supreme Court has heard several lawsuits challenging the legislature’s failure to meet this constitutional obligation. The Court has identified two bedrock constitutional requirements in school finance cases: the equitable distribution of funds reasonably calculated to meet each child’s educational needs and adequate funding so that schools can ensure each child receives a suitable education.

On March 2, 2017, the Kansas Supreme Court issued its decision in *Gannon v. State of Kansas (Gannon IV)* found that “[u]nder the facts of this case, the state’s public education financing system provided by the legislature for grades K-12. Through its structure and implementation, is not reasonably calculated to have all Kansas public education students meet or exceed the . . . *Rose* standards . . . presently codified in K.S.A. 2016 Supp. 72-1127.” The Court further directed that “[o]nce a new financing system is enacted, the State will have to satisfactorily demonstrate to this court by June 30, 2017, that its proposed remedy is reasonably calculated to address the constitutional violates identified, as well as comports with previously identified constitutional mandates such as equity.”

The CCR for SB 19 fails to satisfy both the adequacy and equity requirements of the Kansas Constitution in several significant areas.

1. **Adequate funding.** CCR for SB 19 provides only \$286 million in new money in the next two school years to K-12. This means the per pupil amount will only grow from \$4,006 to \$4,128 over that same period. While this is an increase in base state aid from what was provided in CLASS, it falls well short of achieving the high-water mark of \$4,400 in 2009. Meaning that five years from now we will still be below where we were eight years ago.

In its Order, the Court made it clear there is a correlation between funding and achievement and noted CLASS’s unconstitutionality was due to underfunding. The Court further instructed that actual costs remain a valid factor to be considered in determining constitutional adequacy under Article 6 and instructed the state to not ignore the legislatively commissioned cost studies in creating a remedy.

The Kansas State Board of Education has recommended \$893 million in new money over the same period as funded in the CCR for SB 19. The cost studies commissioned by the legislature estimated a need for \$1.4 billion of new money for K-12. By whatever measurement used, it is clear the CCR for SB 19 is woefully inadequate in funding for our schools which puts the legislature in clear violation of the Kansas Constitution.

40 districts lose \$7.4 million in funding. These districts still have students not achieving. It is not reasonable to expect that they will be able to increase achievement with decreased resources. Another factor of inadequacy.

2. **At-Risk 10% Floor.** The 10% at-risk floor contained in this CCR provides \$2 million a year in additional money for two school districts while many other districts with more at-risk students than free-lunch students do not get extra funds for their at-risk students. There is no cost-based reasoning for this funding and its implementation is structurally flawed. This is both an adequacy and equity violation.

3. **High-Density At-Risk.** The high-density at-risk student weighting provides that when the enrollment of a school or school district is at least 50% at-risk students, the school or school district will receive a high-density at-risk weighting equal to 10.5 percent of the at-risk students of the district. The change to a school level as opposed to the school district level provides \$1.9 million in additional funding to two school districts while leaving roughly half of the other school districts with nothing. This is structurally flawed as it helps individual schools as opposed to school districts as a whole. This is an adequacy violation.

4. **Ancillary School Facilities Weighting.** The Ancillary Levy allows districts to acquire additional money to defray the costs associated with commencing the operation of new facilities. It benefits primarily five districts with \$24 million additional local funding that is not equalized.

5. **Declining Enrollment Levy.** The Declining Enrollment Levy is allowed for two districts. These districts will be able to raise \$3.7 million from increases in their LOB above 31%. Low valuation districts are not able to access these funds which results in inequity.

6. **Cost-of-Living Weighting.** The Cost-of-Living Weighting will allow for six districts to raise \$20 million in unequalized local funding while 21 districts qualify for it. The inclusion of the protest petition also means not all qualifying districts will be able to access the funds.

7. **Extraordinary Declining Enrollment.** CCR for SB 19 provides \$2,593,452 in one-time money for school districts with extraordinary declining enrollment. There is no cost-based reasoning for this funding and it is clearly disequalizing.

8. **Local Option Budget.** Prior Local Option Budget authorization is grandfathered in this report providing 44 districts an extra \$30 million in funding due to an additional

3% of LOB authority. While this is disequalizing on its face it is further disequalizing when you consider those 44 districts have access to these funds without an election while the remaining school districts will be required to obtain taxpayer approval for an increase in their LOB. There is no cost-based reasoning for this funding making it difficult to defend based on equity.

9. **Local Option Budget Equalization.** LOB equalization changes create inequity by changing the assessed valuation per pupil (AVPP) from calculating on current year to using prior year numbers, then after FY 2019, changes again to an average of the prior three years. This method will delay equalization to districts with declining AVPP and allows some districts with increasing AVPP to retain unwarranted equalization money.

10. **Artificial Local Option Budget Base Aid.** The Artificial Local Option Budget Base Aid allows for the use of a base aid amount of \$4,490 for purposes of calculating the LOB authority for local school districts if the base aid is less than \$4,490. This artificial number has been indexed beginning in the 2019-2020 school year using a 3-year rolling average CPI. Essentially, the actual base aid will never catch-up to the artificial base used for calculating LOB authority. This lacks any cost-based reasoning and is inequitable.

11. **Capital Outlay Equalization.** Capital Outlay Equalization changes operate in the same manner as LOB equalization and will result in the same inequity.

12. **Expansion of Capital Outlay Fund Usage.** The Capital Outlay Fund usage has been expanded for the addition of utility expenses and property and casualty insurance which creates a major equity violation. Property and Casualty Insurance expenses are approximately \$35 million statewide while utility expenses are approximately \$106 million statewide. The inclusion of both of these in Capital Outlay would be an expansion by 53%. Expanding the use of a wealth limited fund allows districts with high wealth to shift vastly more operating expenditures into capital outlay, freeing up their general fund or LOB for offering additional education opportunities to their students. Districts with lower wealth will not have the same ability to shift expenditures as wealthy districts.

13. **Miscellaneous Problems.**

a. **Tax Credit for Low Income Students Scholarship (TCLISS).** Eligibility of this program is now expanded to individuals and LLCs. This program contributes zero to solve the adequacy problem while draining state funds away from the state general fund.

b. **Virtual Schools.** Virtual Schools continue unchanged despite having little data showing contribution to the outcomes necessary to meet constitutional responsibilities.

For those reasons, it is clear that the CCR for SB 19 does not meet the constitutional

requirements of the *Gannon* decision. This is in no way constitutional or acceptable for the school children of Kansas.

Representative Jim Ward  
District 86

BECKIE HENDRICKS, JENNY HAUGH, JULIA WERNER, *Journal Clerks*.  
SUSAN W. KANNARR, *Chief Clerk*.

