

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 3, 2013, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with forty senators present.
Invocation by Father Don Davidson:

Creator God, you have made all that has been, is, and will be. In the wonder and midst of your creation we know that it takes many people to make the engine of government run. As we near the end of this session, we thank you Lord for the members of the Legislative services, for the printers and attendants, for the staff assistants and for Don's hot coffee. We give you thanks O God for all who strive to help these legislators do the work of representing the people of our state. Having the right people in the right place at the right time is not a co-incidence; it is a God-incident. With thanksgiving we pray, Amen

The Pledge of Allegiance was led by President Susan Wagle.

POINT OF PERSONAL PRIVILEGE

President Wagle introduced the Rev. Fred Holloman, former Senate Chaplain, who was visiting the Senate. The Senators acknowledged him with a standing ovation.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2105** 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.

JULIA LYNN
SUSAN WAGLE
TOM HOLLAND

Conferees on part of Senate

CHANGE OF CONFERENCE

The President announced the appointment of Senator Francisco as a member of the Conference Committee on **HB 2253** to replace Senator Kelly.

COMMITTEE OF THE WHOLE

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

On motion of Senator Petersen the following report was adopted:

SB 152, SB 181 be passed.

SB 231 be amended by the adoption of the committee amendments, and the bill be passed as amended.

The committee report on **S Sub for HB 2167** recommending a substitute for **S Sub for HB 2167** be adopted, and the substitute bill be passed.

The committee report on **S Sub for HB 2199** recommending a substitute for **S Sub for HB 2199** be adopted, and the bill be amended by motion of Senator Ostmeyer: on page 1, following line 35, by inserting:

"Sec. 3. K.S.A. 2012 Supp. 77-420 is hereby amended to read as follows: 77-420.

(a) Every rule and regulation proposed to be adopted by any state agency, before being submitted to the attorney general under this section, shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar subject to such requirements as to organization, style, orthography and grammar as the secretary may adopt. Every rule and regulation submitted to the secretary of administration under this subsection (a) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the secretary of administration under this subsection (a) shall be stamped as approved and the date of such approval shall be indicated therein.

(b) Every rule and regulation proposed by any state agency which has been approved by the secretary of administration as provided in subsection (a) before being adopted or filed shall be submitted to the attorney general for an opinion as to the legality of the same, including whether the making of such rule and regulation is within the authority conferred by law on the state agency. The attorney general shall promptly furnish an opinion as to the legality of the proposed rule and regulation so submitted. Every rule and regulation submitted to the attorney general under this subsection (b) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the attorney general under this subsection (b) shall be stamped as approved and the date of such approval shall be indicated therein.

(c) No rule and regulation shall be filed by the secretary of state unless:

(1) The organization, style, orthography and grammar have been approved by the secretary of administration;

(2) the rule and regulation has been approved in writing by the attorney general as to legality;

(3) the rule and regulation has been formally adopted by the state agency after it has been approved by the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 77-421, and amendments thereto, when adoption is by a board, commission, authority or other similar body;

(4) the rule and regulation to be filed is accompanied by a copy of the economic

impact statement as provided by K.S.A. 77-416, and amendments thereto; and

(5) the rule and regulation to be filed is accompanied by a copy of the environmental benefit statement required by K.S.A. 77-416, and amendments thereto, if applicable.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement provisions of K.S.A. 2012 Supp. 41-308d, 41-354, 41-713 and 41-2655 shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of revenue until revised, amended, revoked or nullified pursuant to law. K.S.A 2012 Supp. 41-308d, 41-354, 41-713 and 41-2655 shall be a part of and supplemental to the Kansas liquor control act."

And by redesignating sections accordingly;

Also on page 1, in line 36, following "75-4203" by inserting "and 77-420";

Also on page 1, in the title, in line 2, following "and" by inserting "77-420 and"

S Sub for HB 2199 be passed as amended.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority, and **SB 152**, **SB 181**, **SB 231**; **HB 2167** and **HB 2199** were advanced to Final Action and roll call.

SB 152, AN ACT concerning health insurance; pertaining to continuation of health insurance for spouse and dependent children of firefighters and law enforcement officers; amending K.S.A. 2012 Supp. 40-1709 and repealing the existing section.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The bill passed.

EXPLANATION OF VOTE

Madam President: **SB 152** is just a small tribute to those who gave everything in service to Kansas and their communities. I thank the fallen men and women of law enforcement and remember their families with my "yes" vote.—GREG SMITH

Senators Apple, Haley, Kelly, King, Love, Olson and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Smith on **SB 152**.

SB 181, AN ACT concerning personal property taxation; relating to motor vehicles; computation of amount of tax; state school district ad valorem tax levy; amending K.S.A. 79-5105 and repealing the existing section.

On roll call, the vote was: Yeas 19; Nays 19; Present and Passing 2; Absent or Not Voting 0.

Yeas: Abrams, Arpke, Bowers, Bruce, Donovan, Emler, Faust-Goudeau, Fitzgerald, Holmes, Kerschen, Knox, LaTurner, Masterson, Melcher, O'Donnell, Petersen, Powell, Tyson, Wagle.

Nays: Apple, Denning, Francisco, Haley, Hawk, Hensley, Holland, Kelly, King, Lynn, McGinn, Olson, Ostmeyer, Pettey, Pilcher-Cook, Pyle, V. Schmidt, Smith, Wolf.

Present and Passing: Longbine, Love.

A constitutional majority having failed to vote in favor of the bill, **SB 181** did not pass.

EXPLANATION OF VOTE

Madam President: **SB 181** may be good for car sales but the loss in tax receipts to local units of government is costly. We cannot continue to take funding from local government and expect them to provide adequate public safety and all the other services our constituents expect. I vote no.—PAT PETTEY

Senator Haley requests the record to show he concurs with the “Explanation of Vote” offered by Senator Pettey on **SB 181**.

SB 231, AN ACT concerning economic development; relating to rural opportunity zones; amending K.S.A. 2012 Supp. 74-50,222 and repealing the existing section.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Donovan, Emler, Faust-Goudeau, Fitzgerald, Hawk, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Masterson, Melcher, O'Donnell, Olson, Petersen, Pettey, Powell, Pyle, V. Schmidt, Tyson, Wagle.

Nays: Denning, Francisco, Haley, Hensley, Holland, Kelly, Lynn, McGinn, Ostmeyer, Pilcher-Cook, Smith, Wolf.

The bill passed, as amended.

S Sub for HB 2167, AN ACT concerning fireworks; amending K.S.A. 2012 Supp. 31-505 and repealing the existing section; also repealing K.S.A. 31-155 and 31-156.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Pilcher-Cook.

The substitute bill passed.

S Sub for HB 2199, AN ACT concerning certain state officers; amending K.S.A. 75-3727a and K.S.A. 2012 Supp. 75-4203 and repealing the existing sections.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The substitute bill passed, as amended.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **H Sub for SB 83**.

The House concurs in Senate amendments to **HB 2128**, and requests return of the bill.

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

AFTERNOON SESSION

The Senate met, pursuant to recess, with Senator King in the Chair.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2201** 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.

On motion of Senator Apple the Senate adopted the conference committee report on **HB 2201**, and requested a new conference be appointed. The Vice President appointed Senators Apple, Knox and Francisco as Second conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Hawk and Love introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1750—

A RESOLUTION congratulating and commending Kansas State University quarterback Collin Klein for his achievements on and off the football field.

WHEREAS, Collin Klein was born September 19, 1989, and played football for Loveland High School in Colorado and set school records for completion percentage and all-purpose yards; and

WHEREAS, Collin Klein was a coach before he was a quarterback. When his younger brother Kyle joined a flag football team, Collin assumed the role of defensive coordinator. He did not start playing football until he was old enough for high school; and

WHEREAS, Collin Klein made his first career start at quarterback for Kansas State University in a win against the Texas Longhorns in 2010. Collin's leadership qualities led him to be selected as a three-time team captain for K-State; and

WHEREAS, During his illustrious career, Collin Klein earned many awards. He was named a 2012 second team All-American by the Associated Press. He won the 2012 Johnny Unitas Golden Arm Award, the 2012 Kellen Moore Award and was named the 2012 Big 12 Offensive Player of the Year. He was a finalist for the Maxwell Award, the Davey O'Brien Award, the Walter Camp Player of the Year Award and the Manning Award; and

WHEREAS, Collin Klein set many records. He holds the K-State single-season records for most rushing touchdowns and for most rushing yards by a quarterback; and

WHEREAS, Collin Klein piled up close to 3,400 yards and 37 touchdowns during the 2012 football season while leading the K-State Wildcats to an 11-victory season and the program's first Big 12 Championship since 2003. He was invited to New York City as one of three finalists for the Heisman Trophy, college football's most prestigious award. He later played in the 2013 East-West Shrine Game; and

WHEREAS, When Collin Klein graced the cover of Sports Illustrated, it was so difficult to find a copy in Kansas and Colorado that the magazine had to re-release it; and

WHEREAS, Collin Klein was named to the 2012 Allstate AFCA Good Works Team. Out of 117 nominees, Collin was one of 22 players honored. He is the second K-State football player to receive the award in its 21-year history. He also was a finalist for the Senior CLASS Award; and

WHEREAS, Collin Klein was named to the Good Works Team for his various activities in the Manhattan community, such as work with the Fellowship of Christian Athletes, a local reading program, a Christmas food program and the Special Olympics. For him, free time means community service. His selflessness, his faith, his leadership and his work ethic make him not only a special quarterback, but also a special community servant; and

WHEREAS, Collin Klein has various other talents beyond football. In high school he attended musical recitals, where he played the piano, violin and mandolin. He was a second team Academic All Big 12 member; and

WHEREAS, Collin Klein famously played through injuries and established himself as one of the toughest players in the nation. Collin had a unique way of viewing injuries as challenges. He fought through severely bruised ribs, a separated shoulder and a dinged-up ankle. His teammates long ago nicknamed him "Honey Badger" because, much like the animal that became famous in a YouTube video for picking a fight with a rattlesnake, Collin Klein never backed down; and

WHEREAS, Collin Klein has three main priorities: God, family and football: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Collin Klein for his numerous outstanding achievements both on and off the football field and thank him for his community service and for being a positive role model for young people across Kansas; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Hawk and Senator Love.

Senator Love introduced Collin Klein and the Senators honored him with a standing ovation.

On emergency motion of Senator Hawk **SR 1750** was adopted unanimously.

Senators Wolf and Francisco introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1748—

A RESOLUTION recognizing Mark and Louise Allen for their instrumental work in returning Dr. Naismith's original rules of basketball back to Kansas.

WHEREAS, Dr. James Naismith, inventor of the sport of basketball and a legendary member of the University of Kansas basketball community, wrote the original 13 rules

of basketball in 1891; and

WHEREAS, Those rules were written down by Dr. Naismith himself and have been preserved throughout the years in the ownership of the Naismith International Basketball Foundation. In 2010, those original documents became available for auction at Sotheby's, an auction house in New York; and

WHEREAS, These rules are a representation of the tradition-rich basketball community at the University of Kansas. Mark Allen, the grandson of former KU basketball coach Phog Allen, and his wife, Louise, thought the original rules deserved to be back where basketball began, the University of Kansas; and

WHEREAS, Mark and Louise Allen coordinated with David Booth to purchase these rules from Sotheby's at a price of \$4.3 million, setting a new record price for the purchase of sports memorabilia. Mark Allen did a lot of research to ensure the documents were authentic and to bring them back to Kansas; and

WHEREAS, The University of Kansas plans to build a new building near the famous Allen Fieldhouse to house Naismith's original rules of basketball. KU chancellor, Bernadette Gray-Little, expressed gratitude for the efforts of Allen and Booth. President of the KU Endowment, Dale Seuferling, said, "On behalf of all Jayhawk fans, we thank him for his generosity": Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we sincerely thank Mark and Louise Allen for their work to bring this piece of history back to Kansas. The Naismith original rules of basketball will be on display for all Kansans to visit, and we thank Mark and Louise Allen for the efforts they made to make that a reality; and

Be it further resolved: That the Secretary of the Senate be directed to provide one enrolled copy of this resolution to Senator Wolf.

Senator Wolf introduced Mark and Louise Allen and the Senators honored them with a standing ovation.

On emergency motion of Senator Wolf **SR 1748** was adopted unanimously.

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

SENATE RESOLUTION No. 1749—

A RESOLUTION congratulating the Burlington High School women's basketball team on its class 3A state championship.

WHEREAS, The Burlington High School women's basketball team won the 2013 Kansas State High School Activities Association class 3A state championship held in Hutchinson with a victory over Garden Plain, 52-42. This season, the Burlington Lady Cats team was undefeated with a 26-0 record; and

WHEREAS, The Burlington Lady Cats women's basketball team coach, Doug Stewart, was named the 2013 class 3A Coach of the Year. Assistant coaches are David Gilman, Bart Kuhlmann and Erin McGown. Coaches Doug Stewart and David Gilman both had senior daughters on the team; and

WHEREAS, The members of the 2013 Burlington Lady Cats women's basketball team were Haley Gilman, Sarah Pearson, Breanna Bluma, Jacquelyn O'Connor, Madison Stewart, Sydney Ledom, Madison Stadel, Alexa Dorcas, Malorie Wagner, Bailee Norton, Shelbi Emling, Mckayla Cole and Summer Kirchner; and

WHEREAS, Madison Stewart was named to the all state 3A first team. Honorable mention all state selections included Haley Gilman, Breanna Bluma, Sarah Pearson and

Jacquelyn O'Connor, Madison Stewart, Breanna Bluma, Sarah Pearson, Haley Gilman and Jacquelyn O'Connor were named to the Tri-Valley girls all-league team: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Burlington High School women's basketball team on its state championship title. These young women have worked hard throughout the season, and this state title is a testament to that hard work; and

Be it further resolved: That the Secretary of the Senate shall send twenty enrolled copies of this resolution to Senator Knox.

Team members were introduced and the Senators honored them with a standing ovation.

On emergency motion of Senator Knox **SR 1749** was adopted unanimously.

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

SENATE RESOLUTION No. 1751—

A RESOLUTION commemorating the 10th anniversary
of the Armenia-Kansas partnership.

WHEREAS, The National Guard's State Partnership Program has achieved outstanding success in establishing military-to-military relationships focused on security cooperation between the United States and partner countries; and

WHEREAS, Kansas is proud to commemorate the success over the past ten years of the bilateral partnership between Kansas and the Republic of Armenia through the State Partnership Program; and

WHEREAS, Kansas continues its deep commitment to supporting security cooperation activities and defense reform toward a more secure and prosperous future; and

WHEREAS, The Kansas National Guard recognizes the mutual benefit of the partnership, with over 300 military personnel and 70 civilians traveling between Kansas and Armenia since 2003, improving the mutual security and stability for both Armenia and the United States; and

WHEREAS, Kansas would like to recognize President Serzh Sargsyan and Defense Minister Seyran Ohanyan as examples of leaders of a nation known for its hospitality as well as their support for the vision to expand the Kansas-Armenia relationship to the broader mutual benefit of both nation and state; and

WHEREAS, Kansas is grateful and honors the service and sacrifice of Armenian soldiers and peacekeepers who continue to serve alongside United States and North Atlantic Treaty Organization forces in Kosovo, Iraq and Afghanistan; and

WHEREAS, Kansas remembers the victims of the Armenian Genocide each year on April 24th, which has been designated as Armenia Remembrance Day; and

WHEREAS, Kansas citizens of Armenian descent have employed wisdom, courage and centuries-old traditions to enrich the character of our state through their leadership in business, agriculture, academia, government and the arts; and

WHEREAS, Kansas commits to continuing the enduring special relationship with the Republic of Armenia and seeks opportunities for increased cooperation in the future; and

WHEREAS, Kansas honors the nation of Armenia and Armenians everywhere, and

Kansas and the Armenian nation stand together, with an enduring partnership of peace, prosperity and freedom: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the 10th anniversary of the Armenia-Kansas partnership; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to the United States Speaker of the House of Representatives, the President of the United States Senate, the Secretary of State of the United States Department of State, the Kansas Congressional Delegation, John A. Heffern, the United States Ambassador to the Republic of Armenia, and Tatoul Markarian, Ambassador Extraordinary and Plenipotentiary of the Republic of Armenia to the United States of America.

On emergency motion of Senator Emler **SR 1751** was adopted unanimously.

POINT OF PERSONAL PRIVILEGE

Senator O'Donnell rose on a point of personal privilege to recognize students from the Sunrise Christian Academy, of which his mother, Peggy O'Donnell, who is Principle. Also introduced was Kyle Linsted. The Senators rose for a standing ovation.

CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2183** 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.

On motion of Senator Pilcher-Cook the Senate adopted the conference committee report on **Sub HB 2183**, and requested a new conference be appointed.

SENATOR PILCHER-COOK

SENATOR BOWERS

SENATOR KELLY

Conferees on part of Senate

MOTION TO RECONSIDER

Having voted on the prevailing side, Senator Apple moved the Senate reconsider its final action on **SB 181**. The motion carried.

Senator Hensley moved to reconsider previous final action on **SB 181** and place the bill back on general orders. Motion failed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 181, AN ACT concerning personal property taxation; relating to motor vehicles; computation of amount of tax; state school district ad valorem tax levy; amending K.S.A. 79-5105 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 21; Nays 16; Present and Passing 3; Absent or Not Voting 0.

Yeas: Abrams, Arpke, Bruce, Donovan, Emler, Faust-Goudeau, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Powell, Tyson, Wagle.

Nays: Apple, Denning, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Lynn, McGinn, Pettey, Pilcher-Cook, Pyle, V. Schmidt, Smith, Wolf.

Present and Passing: Bowers, Longbine, Love.

The bill passed.

On motion of Senator Bruce, the Senate recessed until 3:45 p.m.

The Senate met, pursuant to recess, with Senator King in the Chair.

CONSIDERATION OF APPOINTMENTS

By the Governor

On the appointment to the:

Kansas Development Finance Authority:

James Cusser, Term ends January 15, 2017

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The appointment was confirmed.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Masterson moved the Senate concur in House amendments to **SB 1**.

SB 1, AN ACT concerning the legislative post audit act; relating to periodic audits of the state treasurer and the pooled money investment board; transition audits; amending K.S.A. 2012 Supp. 46-1106 and repealing the existing section.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 83** 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. 83, as follows:

On page 20, following line 35, by inserting:

"New Sec. 8. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of Kansas:

Any new automobile manufacturing property.

(b) The provisions of subsection (a) shall apply from and after the later of the purchase or commencement of construction of such property and continue only for a period thereafter until 10 calendar years following the calendar year in which construction of such property is completed.

(c) The provisions of this section shall apply to all taxable years beginning after December 31, 2011.

(d) The owner of any new automobile manufacturing property shall pay in lieu of taxes in an amount mutually agreed to by the governing body of the appropriate taxing subdivisions and the owners as long as this exemption is in effect. The in lieu of taxes shall be paid at the same time taxes are required to be paid pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto. The county treasurer shall apportion such in lieu of tax payments among the taxing subdivisions of this state in the territory in which the facility is located. Any payment in lieu of taxes shall be divided by the county treasurer among such taxing subdivisions in the same proportion that the amount of the total mill levy of each individual taxing subdivision bears to the aggregate of such levies of all the taxing subdivisions among which the division is to be made. The county treasurer shall pay such amounts to the taxing subdivisions at the same time or times as their regular operating tax rate mill levy is paid to them. Based upon the assessed valuation which such facility would have if it were upon the tax rolls of the county, the county clerk shall compute the total of the property taxes which would be levied upon such facility by all taxing subdivisions within which the facility is located if such property were taxable.

(e) As used in this section:

(1) "Appropriate taxing subdivisions" means the county, city or unified government jurisdiction in which the new automobile property is located; and

(2) "new automobile manufacturing property" means any real property purchased or constructed after December 31, 2011, owned by a business with an NAICS code of 336111, provided such property:

(A) Includes a building or addition to a building constructed after December 31, 2011, having not less than 50,000 square feet of floorspace; and

(B) was purchased or constructed after December 31, 2011, for a total cost of not less than \$10,000,000 including the cost of both the land and buildings.

New Sec. 9. (a) On and after July 1, 2013, if any person sells or leases tangible personal property to the state, a state department, a state agency or an agent thereof, that person and any affiliated person shall, as a prerequisite for any such sale or lease, register with the department of revenue as a retailer and comply with all legal requirements imposed on a retailer, including the requirement to collect and remit sales or use tax on all taxable sales of tangible personal property to customers in this state.

(b) Any ruling, agreement or contract, whether written or oral, express or implied, between a retailer and this state's executive branch, or any other state agency or department, stating, agreeing or ruling that the retailer is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center or fulfillment center in the state that is owned or operated by the retailer or an affiliated person of the retailer shall be null and void, unless it is specifically approved by a majority vote of each of the chambers of the Kansas legislature.

(c) As used in this section, "affiliated person" means any person that is a member of

the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code as the retailer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code.

New Sec. 10. (a) On and after July 1, 2013, watercraft shall be appraised at fair market value determined therefor pursuant to K.S.A. 79-503a, and amendments thereto, and assessed at the percentage of value as follows: (1) 11.5% in tax year 2014; and (2) 5% in tax year 2015 and all tax years thereafter. In no case shall the assessed value of any watercraft, as determined under the provisions of this section, cause the tax upon such watercraft to be less than \$12.

(b) As used in this section, "watercraft" means any vessel requiring numbering pursuant to K.S.A. 32-1110, and amendments thereto. Each watercraft may include one trailer which is designed to launch, retrieve, transport and store such watercraft and any nonelectric motor or motors which are necessary to operate such watercraft on the water.

Sec. 11. On July 1, 2013, K.S.A. 2012 Supp. 74-2433f is hereby amended to read as follows: 74-2433f. (a) There shall be a division of the state court of tax appeals known as the small claims and expedited hearings division. Hearing officers appointed by the chief hearing officer shall have authority to hear and decide cases heard in the small claims and expedited hearings division.

(b) The small claims and expedited hearings division shall have jurisdiction over hearing and deciding applications for the refund of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, and hearing and deciding appeals from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes Annotated, and ~~acts amendatory thereof or supplemental amendments~~ thereto, with regard to single-family residential property. The filing of an appeal with the small claims and expedited hearings division shall be a prerequisite for filing an appeal with the state court of tax appeals for appeals involving single-family residential property.

(c) At the election of the taxpayer, the small claims and expedited hearings division shall have jurisdiction over: (1) Any appeal of a decision, finding, order or ruling of the director of taxation, except an appeal, finding, order or ruling relating to an assessment issued pursuant to K.S.A. 79-5201 et seq., and amendments thereto, in which the amount of tax in controversy does not exceed \$15,000; (2) hearing and deciding applications for the refund of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, where the value of the property, other than property devoted to agricultural use, is less than \$2,000,000 as reflected on the valuation notice; and (3) hearing and deciding appeals from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes Annotated, and ~~acts amendatory thereof or supplemental amendments~~ thereto, other than those relating to land devoted to agricultural use, wherein the value of the property is less than \$2,000,000 as reflected on the valuation notice.

(d) In accordance with the provisions of K.S.A. 74-2438, and amendments thereto, any party may elect to appeal any application or decision referenced in subsection (b) to the state court of tax appeals. Except as provided in subsection (b) regarding single-family residential property, the filing of an appeal with the small claims and expedited

hearings division shall not be a prerequisite for filing an appeal with the state court of tax appeals under this section. Final decisions of the small claims and expedited hearings division may be appealed to the state court of tax appeals. An appeal of a decision of the small claims and expedited hearings division to the state court of tax appeals shall be de novo.

(e) A taxpayer shall commence a proceeding in the small claims and expedited hearings division by filing a notice of appeal in the form prescribed by the rules of the state court of tax appeals which shall state the nature of the taxpayer's claim. Notice of appeal shall be provided to the appropriate unit of government named in the notice of appeal by the taxpayer. In any valuation appeal or tax protest commenced pursuant to articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, the hearing shall be conducted in the county where the property is located or a county adjacent thereto. In any appeal from a final determination by the secretary of revenue, the hearing shall be conducted in the county in which the taxpayer resides or a county adjacent thereto.

(f) The hearing in the small claims and expedited hearings division shall be informal. The hearing officer may hear any testimony and receive any evidence the hearing officer deems necessary or desirable for a just determination of the case. A hearing officer shall have the authority to administer oaths in all matters before the hearing officer. All testimony shall be given under oath. A party may appear personally or may be represented by an attorney, a certified public accountant, a certified general appraiser, a tax representative or agent, a member of the taxpayer's immediate family or an authorized employee of the taxpayer. A county or unified government may be represented by the county appraiser, designee of the county appraiser, county attorney or counselor or other representatives so designated. No transcript of the proceedings shall be kept.

(g) The hearing in the small claims and expedited hearings division shall be conducted within 60 days after the appeal is filed in the small claims and expedited hearings division unless such time period is waived by the taxpayer. A decision shall be rendered by the hearing officer within 30 days after the hearing is concluded and, in cases arising from appeals described by subsections (b) and (c)(2) and (3), shall be accompanied by a written explanation of the reasoning upon which such decision is based. Documents provided by a taxpayer or county or district appraiser shall be returned to the taxpayer or the county or district appraiser by the hearing officer and shall not become a part of the court's permanent records. Documents provided to the hearing officer shall be confidential and may not be disclosed, except as otherwise specifically provided.

(h) With regard to any matter properly submitted to the division relating to the determination of valuation of property for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. With regard to leased commercial and industrial property, the presumption of validity and correctness of such determination shall exist in favor of the county appraiser unless the taxpayer has furnished the county or district appraiser within 30 calendar days following the informal meeting required by K.S.A. 79-1448, and amendments thereto, or within 30 calendar days following the informal

meeting required by K.S.A. 79-2005, and amendments thereto, a complete income and expense statement for the property for the three years next preceding the year of appeal.

Sec. 12. On July 1, 2013, K.S.A. 2012 Supp. 79-306e is hereby amended to read as follows: 79-306e. (a) The value for property tax purposes of any ~~vessel~~ watercraft, as defined by ~~K.S.A. 32-1102 section 10~~, and amendments thereto, which is acquired or sold after January 1 and prior to September 1 of any taxable year shall be equal to the value determined therefor pursuant to ~~K.S.A. 79-503a section 10~~, and amendments thereto, multiplied by: (1) In the case of a sale, a fraction the numerator of which is the number of months, or major portion thereof, such ~~vessel~~ watercraft was owned by the record owner thereof during the taxable year in which such ~~vessel~~ watercraft was sold, and the denominator of which is 12; and (2) in the case of an acquisition, a fraction the numerator of which is the number of months, or major portion thereof, remaining in the taxable year after the date of acquisition by the record owner thereof, and the denominator of which is 12.

(b) On or after July 1, 2007, notice of the acquisition or sale of any such ~~vessel~~ watercraft shall be provided by the record owner thereof to the appropriate county appraiser on or before December 20 of the year of such acquisition or sale. Upon receipt of such notice, and after computation of the value of any such ~~vessel~~ watercraft in accordance with the provision of subsection (a), a notification or revised notification of value shall be mailed to the taxpayer.

(c) ~~Vessels~~ Watercraft acquired after September 1 of a taxable year shall not be subject to assessment and taxation for such year, except as provided by paragraph (1) of subsection (a).

(d) The provisions of this section shall apply to all taxable years commencing after December 31, ~~2002~~ 2013.

Sec. 13. On July 1, 2013, K.S.A. 2012 Supp. 79-1448 is hereby amended to read as follows: 79-1448. Any taxpayer may complain or appeal to the county appraiser from the classification or appraisal of the taxpayer's property by giving notice to the county appraiser within 30 days subsequent to the date of mailing of the valuation notice required by K.S.A. 79-1460, and amendments thereto, for real property, and on or before May 15 for personal property. The county appraiser or the appraiser's designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question. At such meeting it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including the affording to the taxpayer of the opportunity to review the data sheet of comparable sales utilized in the determination of such valuation. In any appeal from the appraisal of leased commercial and industrial property, the county or district appraiser's appraised value shall be presumed to be valid and correct and may only be rebutted by a preponderance of the evidence, unless the property owner furnishes the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal within 30 calendar days following the informal meeting. The county appraiser may extend the time in which the taxpayer may informally appeal from the classification or appraisal of the taxpayer's property for just and adequate reasons. Except as provided in K.S.A. 79-1404, and amendments thereto, no informal meeting regarding real property shall be scheduled to take place after May 15, nor shall a final determination be given by the appraiser after May 20. Any final determination shall be accompanied by a

written explanation of the reasoning upon which such determination is based when such determination is not in favor of the taxpayer. Any taxpayer who is aggrieved by the final determination of the county appraiser may appeal to the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, and such hearing officer, or panel, for just cause shown and recorded, is authorized to change the classification or valuation of specific tracts or individual items of real or personal property in the same manner provided for in K.S.A. 79-1606, and amendments thereto. In lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, except with regard to land devoted to agricultural use, wherein the value of the property, is less than \$2,000,000, as reflected on the valuation notice, or the property constitutes single family residential property, may appeal to the small claims and expedited hearings division of the state court of tax appeals within the time period prescribed by K.S.A. 79-1606, and amendments thereto. Any taxpayer who is aggrieved by the final determination of a hearing officer or panel may appeal to the state court of tax appeals as provided in K.S.A. 79-1609, and amendments thereto. An informal meeting with the county appraiser or the appraiser's designee shall be a condition precedent to an appeal to the county or district hearing panel.

Sec. 14. On July 1, 2013, K.S.A. 2012 Supp. 79-1609 is hereby amended to read as follows: 79-1609. Any person aggrieved by any order of the hearing officer or panel may appeal to the state court of tax appeals by filing a written notice of appeal, on forms approved by the state court of tax appeals and provided by the county clerk for such purpose, stating the grounds thereof and a description of any comparable property or properties and the appraisal thereof upon which they rely as evidence of inequality of the appraisal of their property, if that be a ground of the appeal, with the state court of tax appeals and by filing a copy thereof with the county clerk within 30 days after the date of the order from which the appeal is taken. A county or district appraiser may appeal to the state court of tax appeals from any order of the hearing officer or panel. With regard to any matter properly submitted to the court relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination ~~except that no such duty shall accrue with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. With regard to leased commercial and industrial property, the presumption of validity and correctness of such determination shall exist in favor of the county or district appraiser unless, within 30 calendar days following the informal meeting required by K.S.A. 79-1448, and amendments thereto, the taxpayer furnished to the county or district appraiser complete income and expense statements for the property for the three years next preceding the year of appeal.~~

Sec. 15. On July 1, 2013, K.S.A. 2012 Supp. 79-1701a is hereby amended to read as follows: 79-1701a. Any taxpayer, the county appraiser or the county clerk shall, on their own motion, request the board of county commissioners to order the correction of the clerical errors in the appraisal, assessment or tax rolls as described in K.S.A. 79-

1701, and amendments thereto. The board of county commissioners of the several counties are hereby authorized to order the correction of clerical errors, specified in K.S.A. 79-1701, and amendments thereto, in the appraisal, assessment or tax rolls for the current year and the immediately preceding two years during the period on and after November 1 of each year. If a county treasurer has collected and distributed the property taxes of a taxpayer and it shall thereafter be determined that the tax computed and paid was based on an erroneous assessment due to a clerical error which resulted in an overpayment of taxes by the taxpayer, and such error is corrected under the provisions hereof then the county commissioners may direct a refund in the amount of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum, from the date of payment from tax moneys collected during the current year and approve a claim therefor. If all or any portion of the taxes on such property remain unpaid, the board of county commissioners shall cancel that portion of such unpaid taxes which were assessed on the basis of the error which is being corrected. In lieu of taking such a refund the taxpayer may, at the taxpayer's option, be allowed a credit on the current year's taxes in the amount of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, from the date of payment for the previous year. In the event the error results in an understatement of value or taxes as a result of ~~a mathematical miscalculation on the part of the county~~, the correction of the clerical errors listed in subsection (a), (c), (f) or (g) of K.S.A. 79-1701, and amendments thereto, and the board of county commissioners of the several counties are hereby authorized to correct such error and order an additional assessment or tax bill, or both, to be issued, except that, in no such case shall the taxpayer be assessed interest or penalties on any tax which may be assessed. If such error applies to property which has been sold or otherwise transferred subsequent to the time the error was made, no such additional assessment or tax bill shall be issued.

Sec. 16. On July 1, 2013, K.S.A. 2012 Supp. 79-1702 is hereby amended to read as follows: 79-1702. If any taxpayer, municipality or taxing district shall have a grievance described under the provisions of K.S.A. 79-1701 or 79-1701a, and amendments thereto, which is not remediable thereunder solely because not reported within the time prescribed therein, or which was remediable thereunder and reported to the proper official or officials within the time prescribed but which has not been remedied by such official or officials, such grievance may be presented to the state court of tax appeals and if it shall be satisfied from competent evidence produced that there is a real grievance, it may direct that the same be remedied either by canceling the tax, if uncollected, together with all penalties charged thereon, or if the tax has been paid, by ordering a refund of the amount found to have been unlawfully charged and collected and interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points.

In all cases where the identical property owned by any taxpayer has been assessed for the current tax year in more than one county in the state, the court is hereby given authority to determine which county is entitled to the assessment of the property and to charge legal taxes thereon, and if the taxes have been paid in a county not entitled thereto, the court is hereby empowered to direct the authorities of the county which has so unlawfully collected the taxes to refund the same to the taxpayer with all penalties charged thereon.

No tax grievance shall be considered by the state court of tax appeals unless the same is filed within four years from the date the tax would have become a lien on real estate.

In all cases where an error results in an understatement of values or taxes as a result of ~~a mathematical miscalculation on the part of a county~~ the correction of the clerical errors listed in subsection (a), (c), (f) or (g) of K.S.A. 79-1701, and amendments thereto, the state court of tax appeals, if it shall be satisfied from competent evidence produced that there is an understatement as a result of a clerical error, may order an additional assessment or tax bill, or both, to be issued so that the proper value of the property in question is reflected, except that, in no such case shall the taxpayer be assessed interest or penalties on any tax which may be assessed. No increase shall be ordered to correct such error that extends back more than two years from the date of the most recent tax year. If such error applies to property which has been sold or otherwise transferred subsequent to the time the error was made, no such additional assessment or tax bill shall be issued.

Errors committed in the valuation and assessment process that are not specifically described in K.S.A. 79-1701, and amendments thereto, shall be remediable only under the provisions of K.S.A. 79-2005, and amendments thereto.

Sec. 17. On July 1, 2013, K.S.A. 2012 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole or in part in an amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state court of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor

shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

(d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall mail a copy of such written statement of protest to the state court of tax appeals and the governing body of the taxing district making the levy being protested.

(g) Within 30 days after notification of the results of the informal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the informal meeting with the county appraiser, appeal such results to the state court of tax appeals.

(h) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the informal meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the court shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing. If the grounds of such protest is that the valuation or assessment of the property is illegal or void the court shall notify the county appraiser thereof.

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the court. With regard to any matter properly submitted to the court relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the court sets a request for hearing and requires

the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor.

(j) When a determination is made as to the merits of the tax protest, the court shall render and serve its order thereon. The county treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(k) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the court within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(l) (1) In the event the court orders that a refund be made pursuant to this section or the provisions of K.S.A. 79-1609, and amendments thereto, or a court of competent jurisdiction orders that a refund be made, and no appeal is taken from such order, or in the event a change in valuation which results in a refund pursuant to subsection (a), the county treasurer shall, as soon thereafter as reasonably practicable, refund to the taxpayer such protested taxes and, with respect to protests or appeals commenced after the effective date of this act, interest computed at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points, per annum from the date of payment of such taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes, except that, with respect to that portion of any such refund attributable to interest the county treasurer shall charge the county general fund. In the event that the state court of tax appeals or a court of competent jurisdiction finds that any time delay in making its decision is unreasonable and is attributable to the taxpayer, it may order that no interest or only a portion thereof be added to such refund of taxes.

(2) No interest shall be allowed pursuant to paragraph (1) in any case where the tax paid under protest was inclusive of delinquent taxes.

(m) Whenever, by reason of the refund of taxes previously received or the reduction of taxes levied but not received as a result of decreases in assessed valuation, it will be impossible to pay for imperative functions for the current budget year, the governing body of the taxing district affected may issue no-fund warrants in the amount necessary. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state court of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized by law.

(n) Whenever a taxpayer appeals to the court of tax appeals pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, or pays taxes under protest related to one property whereby the assessed valuation of such property exceeds 5% of the total county assessed valuation of all property located within such county and the taxpayer receives a refund of such taxes paid under protest or a refund made pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, the county treasurer or the governing body of any taxing subdivision within a county may request the pooled money investment board to make a loan to such county or taxing subdivision as provided in this section. The pooled money investment board is authorized and directed to loan to such county or taxing subdivision sufficient funds to enable the county or

taxing subdivision to refund such taxes to the taxpayer. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Each loan shall bear interest at a rate equal to the net earnings rate of the pooled money investment portfolio at the time of the making of such loan. The total aggregate amount of loans under this program shall not exceed \$50,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Upon certification to the pooled money investment board by the county treasurer or governing body of the amount of each loan authorized pursuant to this subsection, the pooled money investment board shall transfer each such amount certified by the county treasurer or governing body from the state bank account or accounts prescribed in this subsection to the county treasurer who shall deposit such amount in the county treasury. Any such loan authorized pursuant to this subsection shall be repaid within four years. The county or taxing subdivision shall make not more than four equal annual tax levies at the time fixed for the certification of tax levies to the county clerk following the making of such loan sufficient to pay such loan within the time period required under such loan. All such tax levies shall be in addition to all other levies authorized by law.

(o) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(p) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the state court of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 18. On July 1, 2013, K.S.A. 2012 Supp. 79-3702 is hereby amended to read as follows: 79-3702. For the purposes of this act: (a) "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state. If a cash discount is allowed and taken on the sale it shall be deducted in arriving at the purchase price.

(b) The meaning ascribed to words and phrases in K.S.A. 79-3602, and amendments thereto, insofar as is practicable, shall be applicable herein unless otherwise provided. The provisions of K.S.A. 79-3601 to 79-3625, inclusive, 79-3650, K.S.A. 2012 Supp. 79-3693 and 79-3694, and amendments thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of this act.

(c) "Use" means the exercise within this state by any person of any right or power over tangible personal property incident to the ownership of that property, except that it

shall not include processing, or the sale of the property in the regular course of business, and except storage as hereinafter defined.

(d) "Storage" means any keeping or retaining in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(e) "Storage" and "use" do not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into this state for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

(f) "Property used in processing" means: (1) Any tangible personal property which, when used in fabrication, compounding, manufacturing or germination, becomes an integral part of the new article resulting from such fabrication, compounding, manufacturing, or germination, and intended to be sold ultimately at retail; and (2) fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

(g) "Retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of this act, except that, when in the opinion of the director it is necessary for the efficient administration of this act to regard any salesperson, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this act.

(h) (1) "Retailer doing business in this state" or any like term, means: (A) Any retailer ~~having or~~ maintaining in this state, permanently, temporarily, directly or indirectly through a subsidiary, agent or representative, an office, distribution house, sales house, warehouse or other place of business;

(B) any retailer ~~having~~ utilizing an employee, independent contractor, agent, representative, salesperson, canvasser ~~or~~, solicitor or other person operating in this state either permanently or temporarily, ~~under the authority of the retailer or its subsidiary,~~ for the purpose of selling, delivering, installing, assembling, servicing, repairing, soliciting sales or the taking of orders for tangible personal property;

(C) any retailer, including a contractor, repair person or other service provider, who enters this state to perform services that are enumerated in K.S.A. 79-3603, and amendments thereto, and who is required to secure a retailer's sales tax registration certificate before performing those services;

(D) any retailer deriving rental receipts from a lease of tangible personal property situated in this state;

(E) ~~any person having a franchisee or licensee operating under its trade name if the franchisee or the licensee is required to collect the tax under the Kansas retailers' sales tax act;~~

~~(F)~~ any person regularly maintaining a stock of tangible personal property in this state for sale in the normal course of business; and

—(G)(F) any retailer who has any other contact with this state that would allow this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States.

(2) A retailer shall be presumed to be doing business in this state if any of the following occur:

(A) ~~Both of the following conditions exist:~~

(i) The retailer holds a substantial ownership interest in, or is owned in whole substantial part by, a retailer maintaining a sales location in Kansas; and

(ii) the retailer sells the same or a substantially similar line of products as the related Kansas retailer and does so under the same or a substantially similar business name, or the Kansas facilities or Kansas employees of the related Kansas retailer are used to advertise, promote or facilitate sales by the retailer to consumers.

(B) The retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse or similar place of business in Kansas that delivers property sold by the retailer to consumers.

(C) For purposes of paragraphs (A) and (B):

(i) "Substantial ownership interest" means an interest in an entity that is not less than the degree of ownership of equity interest in an entity that is specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer; and

~~(ii) "ownership" means and includes both direct ownership, and indirect ownership through a parent, subsidiary or affiliate. Any person, other than a common carrier acting in its capacity as such, that has nexus with the state sufficient to require such person to collect and remit taxes under the provisions of the constitution and laws of the United States if such person were making taxable retail sales of tangible personal property or services in this state:~~

(i) Sells the same or a substantially similar line of products as the retailer and does so under the same or a substantially similar business name;

(ii) maintains a distribution house, sales house, warehouse or similar place of business in Kansas that delivers or facilitates the sale or delivery of property sold by the retailer to consumers;

(iii) uses trademarks, service marks, or trade names in the state that are the same or substantially similar to those used by the retailer;

(iv) delivers, installs, assembles or performs maintenance services for the retailer's customers within the state;

(v) facilitates the retailer's delivery of property to customers in the state by allowing the retailer's customers to pick up property sold by the retailer at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in the state;

(vi) has a franchisee or licensee operating under its trade name if the franchisee or the licensee is required to collect the tax under the Kansas retailers' sales tax act; or

(vii) conducts any other activities in the state that are significantly associated with the retailer's ability to establish and maintain a market in the state for the retailer's sales.

(B) Any affiliated person conducting activities in this state described in subparagraph (A) or (C) has nexus with this state sufficient to require such person to collect and remit taxes under the provisions of the constitution and laws of the United

States if such person were making taxable retail sales of tangible personal property or services in this state.

(C) The retailer enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link or an internet website, by telemarketing, by an in-person oral presentation, or otherwise, to the retailer, if the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents with this type of an agreement with the retailer is in excess of \$10,000 during the preceding 12 months. This presumption may be rebutted by submitting proof that the residents with whom the retailer has an agreement did not engage in any activity within the state that was significantly associated with the retailer's ability to establish or maintain the retailer's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the retailer has an agreement stating that they did not engage in any solicitation in the state on behalf of the retailer during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the enactment of this statute and shall apply to sales made and uses occurring on or after the effective date of this subparagraph and without regard to the date the retailer and the resident entered into the agreement described in this subparagraph. The term "preceding 12 months" as used in this subparagraph includes the 12 months commencing prior to the effective date of this subparagraph.

(D) The presumptions in subparagraphs (A) and (B) may be rebutted by demonstrating that the activities of the person or affiliated person in the state are not significantly associated with the retailer's ability to establish or maintain a market in this state for the retailer's sales.

(3) The processing of orders electronically, by fax, telephone, the internet or other electronic ordering process, does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this section.

(i) "Director" means the director of taxation.

(j) As used in this section, "affiliated person" means any person that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code as the retailer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code."

And by renumbering sections accordingly;

Also on page 20, in line 39, after "Supp." by inserting "74-2433f,."; also in line 39, by striking "is" and inserting ", 79-306e, 79-1448, 79-1609, 79-1701a, 79-1702, 79-2005 and 79-3702 are";

On page 1, in the title, in line 3, after "sales" by inserting "and use"; also in line 3, after the second "tax" by inserting ", nexus"; also in line 3, before "amending" by inserting "property tax, exemptions, watercraft, appraisals, payment of refund of taxes;"; also in line 3, after "Supp." by inserting "74-2433f,."; in line 4, after "5162," by inserting "79-306e, 79-1448, 79-1609, 79-1701a, 79-1702, 79-2005,."; also in line 4, after "79-3620" by inserting ", 79-3702";

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

Les Donovan

CARYN TYSON

TOM HOLLAND

Conferees on part of Senate

RICHARD CARLSON

SCOTT SCHWAB

TOM SAWYER

Conferees on part of House

Senator Donovan moved the Senate adopt the Conference Committee Report on **H Sub for SB 83**.

On roll call, the vote was: Yeas 36; Nays 2; Present and Passing 2; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Powell, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Pilcher-Cook, Pyle.

Present and Passing: Francisco, Love.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2009** 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 3, in line 14, before "during" by inserting "in going to or returning from an appointment with a health care provider or"; by striking all in line 19;

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

JEFF KING

CRAIG SMITH

DAVID HALEY

Conferees on part of Senate

RICHARD PROEHL

RON RYCKMAN, SR.

EMILY PERRY

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2009**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher,

O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2024** 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 7, in line 37, by striking "\$1,000" and inserting "\$2,000";

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

JULIE LYNN

SUSAN WAGLE

TOM HOLLAND

Conferees on part of Senate

MARVIN KLEEB

GENE SUELLENTROP

STAN FROWNFELTER

Conferees on part of House

Senator Lynn moved the Senate adopt the Conference Committee Report on **Sub HB 2024**.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Powell, V. Schmidt, Smith, Wagle, Wolf.

Nays: Knox, Pilcher-Cook, Pyle, Tyson.

Present and Passing: Francisco.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2033** 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 1, in line 19, by striking "38-3202" and inserting "38-2302"; in line 20, by striking "38-3202" and inserting "38-2302"; in line 25, by striking "or" and inserting a comma; in line 30, before the semicolon by inserting "or throwing star";

On page 5, in line 39, by striking "or" and inserting a comma;

On page 6, in line 1, before the semicolon by inserting "or throwing star";

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

RALPH OSTMEYER

JAY EMLER

TOM HAWK

Conferees on part of Senate

ARLEN SIEGFRIED

STEVEN BRUNK

LOUIS RUIZ

Conferees on part of House

Senator Emler moved the Senate adopt the Conference Committee Report on **HB 2033**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2043** 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. 2043, as follows:

On page 1, following line 5, by inserting:

"Section 1. K.S.A. 2012 Supp. 21-6617 is hereby amended to read as follows: 21-6617. (a) If a defendant is charged with capital murder, the county or district attorney shall file written notice if such attorney intends, upon conviction of the defendant, to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death. In cases where the county or district attorney or a court determines that a conflict exists, such notice may be filed by the attorney general. Such notice shall be filed with the court and served on the defendant or the defendant's attorney not later than seven days after the time of arraignment. If such notice is not filed and served as required by this subsection, the ~~county or district~~ prosecuting attorney may not request such a sentencing proceeding and the defendant, if convicted of capital murder, shall be sentenced to life without the possibility of parole, and no sentence of death shall be imposed hereunder.

(b) Except as provided in K.S.A. 2012 Supp. 21-6618 and 21-6622, and amendments thereto, upon conviction of a defendant of capital murder, the court, upon motion of the ~~county or district~~ prosecuting attorney, shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the sentencing proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors

who are unable to serve at the sentencing proceeding, the trial judge may summon a special jury of 12 persons which shall determine the question of whether a sentence of death shall be imposed. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such special jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived or the trial jury has been waived, the sentencing proceeding shall be conducted by the court.

(c) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the state has made known to the defendant prior to the sentencing proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the sentencing proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(d) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations.

(e) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced to death; otherwise, the defendant shall be sentenced to life without the possibility of parole. The jury, if its verdict is a unanimous recommendation of a sentence of death, shall designate in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict, the judge shall dismiss the jury and impose a sentence of life without the possibility of parole and shall commit the defendant to the custody of the secretary of corrections. In nonjury cases, the court shall follow the requirements of this subsection in determining the sentence to be imposed.

(f) Notwithstanding the verdict of the jury, the trial court shall review any jury verdict imposing a sentence of death hereunder to ascertain whether the imposition of such sentence is supported by the evidence. If the court determines that the imposition of such a sentence is not supported by the evidence, the court shall modify the sentence and sentence the defendant to life without the possibility of parole, and no sentence of death shall be imposed hereunder. Whenever the court enters a judgment modifying the sentencing verdict of the jury, the court shall set forth its reasons for so doing in a written memorandum which shall become part of the record.

(g) A defendant who is sentenced to imprisonment for life without the possibility of parole shall spend the remainder of the defendant's natural life incarcerated and in the

custody of the secretary of corrections. A defendant who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence. Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.";

And by redesignating sections accordingly;

Also on page 1, in line 22, following "Supp." by inserting "21-6617 and"; also in line 22, by striking "is" and inserting "are";

Also on page 1, in the title, in line 2, following "authority;" by inserting "relating to notice of intent to seek the death penalty;"; also in line 2, following "Supp." by inserting "21-6617 and"; in line 3, by striking "section" and inserting "sections";

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

Jeff KING

GREG SMITH

DAVID HALEY

Conferees on part of Senate

JOHN RUBIN

RAMON GONZALEZ

GAIL FINNEY

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **S Sub for HB 2043**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Present and Passing: Kelly, V. Schmidt.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2339** 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 5, following line 14, by inserting:

"New Sec. 2. (a) (1) Except as provided in paragraph (2), whenever a state agency or municipality provides for the payment of premiums for any health benefit plan for law enforcement officers employed by such state agency or such municipality, the state agency or municipality shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of a law enforcement officer who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

(2) Neither the state agency nor the municipality may be required to pay the premiums described in paragraph (1) for a surviving spouse:

(A) On or after the end of the 18th calendar month after the date of death of the deceased law enforcement officer;

(B) upon the remarriage of the deceased law enforcement officer's surviving spouse; or

(C) upon the deceased law enforcement officer's surviving spouse reaching the age of 65.

(b) For the purposes of this section:

(1) "Health benefit plan" shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(2) "Law enforcement officer" means an employee employed by a law enforcement agency and:

(A) Whose principal duties are engagement in the enforcement of law and maintenance of order within this state and its political subdivisions; and

(B) who is certified pursuant to the provisions of the Kansas law enforcement training act, K.S.A. 74-5601 et seq., and amendments thereto.

(3) "Municipality" means city, county or township.

(4) "State agency" shall have the meaning ascribed to such term in K.S.A. 75-3701, and amendments thereto.

Sec. 3. K.S.A. 2012 Supp. 40-1709 is hereby amended to read as follows: 40-1709.

(a) (1) Except as provided in ~~paragraphs (2) and (3)~~ paragraph (2), whenever a municipality provides for the payment of premiums for any health benefit plan for its firefighters, it shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of a firefighter who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

(2) A municipality may not be required to pay the premiums described in paragraph (1) for a surviving spouse:

(A) On or after the end of the 18th calendar month after the date of death of the deceased firefighter;

(B) upon the remarriage of the deceased firefighter's surviving spouse; or

(C) upon the deceased firefighter's surviving spouse reaching the age of 65.

~~(3) An individual is not a dependent child of a deceased firefighter for the purposes of paragraph (1) after such individual reaches the age of 18 years unless such individual is a:~~

~~(A) Full-time student in an accredited high school; or~~

~~(B) full-time student in a postsecondary educational institution, except that this subparagraph shall not apply to such an individual after the close of the calendar year in which the individual reaches the age of 24 as long as such individual continues to~~

~~maintain such status as a full-time student.~~

(b) For the purposes of this section:

(1) "Firefighter" means an actual member of an organized fire department, of a municipality, whether regular or volunteer.

(2) "Health benefit plan" shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.

(3) "Municipality" means city, county or township.

(4) "Postsecondary educational institution" shall have the meaning ascribed to it in K.S.A. 74-3201b, and amendments thereto.

Sec. 4. K.S.A. 2012 Supp. 40-4903 is hereby amended to read as follows: 40-4903.

(a) Unless denied licensure pursuant to K.S.A. 2012 Supp. 40-4909, and amendments thereto, any person who meets the requirements of K.S.A. 2012 Supp. 40-4905, and amendments thereto, shall be issued an insurance agent license. An insurance agent may receive qualifications for a license in one or more of the following lines of authority:

(1) Life — insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness — insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(3) Property — insurance coverage for the direct or consequential loss or damage to property of every kind.

(4) Casualty — insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(5) Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts, variable annuities or any other life insurance or annuity product that reflects the investment experience of a separate account.

(6) Personal lines — property and casualty insurance coverage sold primarily to an individual or family for noncommercial purposes.

(7) Credit — limited line credit insurance.

(8) Crop insurance — limited line insurance for damage to crops from unfavorable weather conditions, fire, lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or any other peril subsidized by the federal crop insurance corporation, including multi-peril crop insurance.

(9) Title insurance — limited line insurance that insures titles to property against loss by reason of defective titles or encumbrances.

(10) Travel insurance — limited line insurance for personal risks incidental to planned travel, including, but not limited to:

(A) Interruption or cancellation of trip or event;

(B) loss of baggage or personal effects;

(C) damages to accommodations or rental vehicles; or

(D) sickness, accident, disability or death occurring during travel. Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, for example, persons working overseas including military personnel deployed overseas.

(11) Pre-need funeral insurance — limited line insurance that allows for the purchase of a life insurance or annuity contract by or on behalf of the insured solely to fund a pre-need contract or arrangement with a funeral home for specific services.

(12) Bail bond insurance — limited line insurance that provides surety for a monetary guarantee that an individual released from jail will be present in court at an appointed time.

~~(8)~~ (13) Any other line of insurance permitted under the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations promulgated thereunder.

(b) Unless suspended, revoked or refused renewal pursuant to K.S.A. 2012 Supp. 40-4909, and amendments thereto, an insurance agent license shall remain in effect as long as education requirements for resident individual agents are met by such insurance agent's biennial due date.

(c) On and after the effective date of this act: (1) Each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 12 C.E.C.'s in courses certified as property and casualty which shall include at least one hour of instruction in insurance ethics which also may include regulatory compliance. No more than three of the required C.E.C.'s shall be in insurance agency management.

(2) Each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete 12 C.E.C.'s in courses certified as life, accident and health, or variable contracts which shall include at least one hour of instruction in insurance ethics which also may include regulatory compliance. No more than three of the required C.E.C.'s shall be in insurance agency management.

(3) Each licensed insurance agent who is an individual and holds only a ~~crop-only~~ qualification shall biennially obtain a minimum of two C.E.C.'s in courses certified as crop C.E.C.s under the property and casualty category.

(4) Each licensed insurance agent who is an individual and is licensed only for title insurance shall biennially obtain a minimum of four C.E.C.'s in courses certified by the board of abstract examiners as title under the property and casualty category.

(5) Each licensed insurance agent who is an individual and holds a life insurance license solely for the purpose of selling life pre-need funeral insurance or annuity products ~~used to fund a prearranged funeral program and whose report of compliance required by subsection (g) is accompanied by a certification from an officer of each insurance company represented by such agent certifying that such agent transacted no other insurance business during the period covered by the report shall biennially obtain a minimum of two C.E.C.'s in courses certified as life or variable contracts under the life, accident and health or variable contracts category shall file a report on or before such agent's biennial due date affirming that such agent transacted no other insurance business during the period covered by the report. Upon request of the commissioner, an agent shall provide certification from an officer of each insurance company which has appointed such agent that the agent transacted no other insurance business during the period covered by the report. Agents who have offered to sell or sold only pre-need funeral insurance are exempt from the requirement to obtain C.E.C.s.~~

(6) Each licensed insurance agent who is an individual and holds only a bail bond qualification is exempt from the requirement to obtain C.E.C.s.

(d) On and after the effective date of this act, each individual insurance agent who holds a license with both a property or casualty qualification, or both, and a life, accident and health or variable contracts qualification, or any combination thereof, and

who ~~earn~~ earns C.E.C.'s from courses certified by the commissioner as qualifying for credit in any class, may apply, at such insurance agent's option, such C.E.C.'s toward either the property or casualty continuing education requirement or to the life, accident and health or variable contracts continuing education requirement. However, no C.E.C. shall be applied to satisfy both the biennial property or casualty requirement, or both, and the biennial requirement for life, accident and health or variable contracts, or any combination thereof.

(e) An instructor of an approved subject shall be entitled to the same C.E.C. as a student completing the study.

(f) (1) An individual insurance agent who has been licensed for more than one year, on or before such insurance agent's biennial due date, shall file a report with the commissioner certifying that such insurance agent has met the continuing education requirements for the previous biennium ending on such insurance agent's biennial due date. Each individual insurance agent shall maintain a record of all courses attended together with a certificate of attendance for the remainder of the biennium in which the courses were attended and the entire next succeeding biennium.

(2) If the required report showing proof of continuing education completion is not received by the commissioner by the individual insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the producer satisfactorily demonstrates completion of the continuing education requirement whichever is sooner. In addition the commissioner shall assess a penalty of \$100 for each license suspended. If such insurance agent fails to furnish to the commissioner the required proof of continuing education completion and the monetary penalty within 90 calendar days of such insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall expire on such insurance agent's biennial due date. If after more than three but less than 12 months from the date the license expired, the insurance agent wants to reinstate such insurance agent's license, such individual shall provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. If after more than 12 months from the date an insurance agent's license has expired, such insurance agent wants to reinstate such insurance agent's license, such individual shall apply for an insurance agent's license, provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. Upon receipt of a written application from such insurance agent claiming extreme hardship, the commissioner may waive any penalty imposed under this subsection.

(3) On and after the effective date of this act, any applicant for an individual insurance agent's license who previously held a license which expires on or after June 30, 2001, because of failure to meet continuing education requirements and who seeks to be relicensed shall provide evidence that appropriate C.E.C.'s have been completed for the prior biennium.

(4) Upon receipt of a written application from an individual insurance agent, the commissioner, in cases involving medical hardship or military service, may extend the time within which to fulfill the minimum continuing educational requirements for a period of not to exceed 180 days.

(5) This section shall not apply to any inactive insurance agent during the period of

such inactivity. For the purposes of this paragraph, "inactive period" or "period of inactivity" shall mean a continuous period of time of not less than two years and not more than four years starting from the date inactive status is granted by the commissioner. Before returning to active status, such inactive insurance agent shall:

(A) File a report with the commissioner certifying that such agent has met the continuing education requirement; and

(B) pay the renewal fee. If the required proof of continuing education completion and the renewal fee is not furnished at the end of the inactive period, such individual insurance agent's qualification and each and every corresponding license shall expire at the end of the period of inactivity. For issuance of a new license, the individual shall apply for a license and pass the required examination.

(6) Any individual who allows such individual's insurance agent license in this state and all other states in which such individual is licensed as an insurance agent to expire for a period of four or more consecutive years, shall apply for a new insurance agent license and pass the required examination.

(g)(1) Each course, program of study, or subject shall be submitted to and certified by the commissioner in order to qualify for purposes of continuing education.

(2) Each request for certification of any course, program of study or subject shall contain the following information:

- (A) The name of provider or provider organization;
- (B) the title of such course, program of study or subject;
- (C) the date the course, program of study or subject will be offered;
- (D) the location where the course, program of study or subject will be offered;
- (E) an outline of each course, program of study or subject including a schedule of times when such material will be presented;
- (F) the names and qualifications of instructors;
- (G) the number of C.E.C.'s requested; ~~and~~
- (H) a nonrefundable C.E.C. qualification fee in the amount of \$50 per course, program of study or subject or \$250 per year for all courses, programs of study or subjects submitted by a specific provider or provider organization; and

(I) a nonrefundable annual provider fee of \$100.

(3) Upon receipt of such information, the commissioner shall grant or deny certification of any submitted course, program of study or subject as an approved subject, program of study or course and indicate the number of C.E.C.'s that will be recognized for each approved course, program of study or subject. Each approved course, program of study or subject shall be assigned by the commissioner to one or both of the following classes:

- (A) Property and casualty; or
- (B) life insurance ~~(including annuity and variable contracts)~~, and accident and health insurance.

(4) Each course, program of study or subject shall have a value of at least one C.E.C.

(5) Each provider seeking approval of a course, program of study or subject for continuing education credit shall issue or cause to be issued to each person who attends a course, program of study or subject offered by such provider a certificate of attendance. The certificate shall be signed by either the instructor who presents the course, program of study or course or such provider's authorized representative. Each

provider shall maintain a list of all individuals who attend courses offered by such provider for continuing education credit for the remainder of the biennium in which the courses are offered and the entire next succeeding biennium.

The commissioner shall accept, without substantive review, any course, program of study or subject submitted by a provider which has been approved by the insurance supervisory authority of any other state or territory accredited by the NAIC. The commissioner may disapprove any individual instructor or provider who has been the subject of disciplinary proceedings or who has otherwise failed to comply with any other state's or territory's laws or regulations.

(6) The commissioner may grant or approve any specific course, program of study or course that has appropriate merit, such as any course, programs of study or course with broad national or regional recognition, without receiving any request for certification. The fee prescribed by paragraph (2) of subsection (g) shall not apply to any approval granted pursuant to this provision.

(7) The C.E.C. value assigned to any course, program of study or subject, other than a correspondence course, computer based training, interactive internet study training or other course pursued by independent study, shall in no way be contingent upon passage or satisfactory completion of any examination given in connection with such course, program of study or subject. The commissioner shall establish, by rules and regulations criteria for determining acceptability of any method used for verification of the completion of each stage of any computer based or interactive internet study training. Completion of any computer based training or interactive internet study training shall be verified in accordance with a method approved by the commissioner.

(h) Upon request, the commissioner shall provide a list of all approved continuing education courses currently available to the public.

(i) An individual insurance agent who independently studies an insurance course, program of study or subject which is not ~~a~~ an agent's examination approved by the commissioner and who passes an independently monitored examination, shall receive credit for the C.E.C.'s assigned by the commissioner as recognition for the approved subject. No other credit shall be given for independent study.

(j) Any licensed individual insurance agent who is unable to comply with license renewal procedures due to military service or some other extenuating circumstances may request a waiver of those procedures from the commissioner. Such agent may also request from the commissioner a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.";

And by renumbering sections accordingly;

Also on page 5, in line 15, by striking "is" and inserting ", 40-1709 and 40-4903 are";

On page 1, in the title, in line 3, by striking "life"; in line 4, after the semicolon by inserting "pertaining to continuation of health insurance for spouse and dependent children of firefighters and law enforcement officers; relating to line of insurance and reporting requirements;"; in line 5, after "40-401" by inserting ", 40-1709 and 40-4903"; also in line 5, by striking "section" and inserting "sections";

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

ROB OLSON
JEFF LONGBINE
TOM HAWK

Conferees on part of Senate

CLARK SHULTZ
 PHIL HERMANSON
 GAIL FINNEY

Conferees on part of House

Senator Olson moved the Senate adopt the Conference Committee Report on **HB 2339**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2069**, requests a conference and has appointed Representative Kleeb, Suellentrop and Frownfelter as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2199**, requests a conference and has appointed Representatives Siegfried, Brunk and Ruiz as conferees on the part of the House.

The Hour adopts the Conference Committee report to agree to disagree on **SB 199**, and has appointed Representatives Crum, Weber and Ward as Second conferees on the part of the House.

The House adopts the Conference committee report to agree to disagree on **Sub HB 2105**, and has appointed Representatives Kleeb, Suellentrop and Frownfelter as Second conferees on the part of the House.

CHANGE OF REFERENCE

Under the authority of the President, Vice President King withdrew **HB 2312** from The Committee of the Whole, and rereferred the bill to the Committee on **Financial Institutions and Insurance**.

The Vice President also withdrew **HB 2099** from The Committee of the Whole, and rereferred the bill to the Committee on **Financial Institutions and Insurance**.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Thursday, April 4, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks*.

DIANE MINEAR, *Secretary of the Senate*.

