

# Journal of the Senate

SIXTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, May 15, 2012, 10:00 a.m.

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

Heavenly Father,

There is a pertinent question  
That we should ask You, Lord,  
In the midst of controversy  
Which may produce discord.

It seems a simple question,  
But it could produce some light  
If we simply ask ourselves,  
“Is what we're doing right?”

Somewhere along the line, O God,  
It's easy to lose sight,  
And ask some other questions  
Instead of, “Is it right?”

“Is it smart?” or “Is it safe?”  
“Expedient” or “Dynamite?”  
Are some questions we might ask  
Instead of, “Is it right?”

It may be true that “What is right?”  
Could be a hard thing to define,  
That's when we should ask You, Lord,  
To define it for us every time.

And after You've approved it, Lord,  
Though it could provoke a fight.  
Help us answer the question,  
“Is what we're doing right?”

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

**MESSAGE FROM THE GOVERNOR**

**SB 14, SB 262** approved May 14, 2012.

**MESSAGE FROM THE HOUSE**

The House adopts the Conference Committee report on **SB 306**.

The House adopts the Conference Committee report on **Substitute SB 307**.

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

AFTERNOON SESSION

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

**MESSAGE FROM THE HOUSE**

The House adopts the Conference Committee report on **House Substitute for SB 425**.

On motion of Senator Emler the Senate recessed until 2:45 p.m.

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

**INTRODUCTION OF ORIGINAL MOTION AND SENATE RESOLUTIONS.**

Pursuant to subsection (b) of Senate Rule 11, I move to withdraw **House Bill 2764** from the Committee on **Financial Institutions and Insurance** and have it placed on the Calendar under that order of business General Orders. The reasons for withdrawal include:

1. **HB 2764** passed the House on March 21, 2012 by a vote of 92-30 and was referred to the Committee on Financial Institutions and Insurance on March 28, 2012. The bill contains important public policy, but has not been considered by the Committee on Financial Institutions and Insurance.

2. The underlying coverage in **HB 2764** is identical to the coverage contained in **Senate Substitute for House Bill 2160** in the 2010 Legislative Session. That measure passed this chamber in 2010, placing the coverage for the treatment and diagnosis of autism spectrum disorder in the state employee health plan, by a vote of 40-0 on March 18, 2010. **Senate Substitute for House Bill 2160** was the product of many hours of work of the Chair of the Financial Institutions and Insurance.

3. **HB 2764** contains the same precise coverage limitations for Autism Spectrum

Disorder as **Senate Substitute for House Bill 2060** and would now extend that coverage, with those limitations, to any individual or group health insurance policy, plan, contract, fraternal benefit society, or health maintenance organization that provides coverage for accident and health services on and after July 1, 2012, (for policies issued, amended or renewed) to provide coverage for the treatment and diagnosis of autism spectrum disorders (ASDs) for covered individuals.

4. **HB 2764** is not new subject matter for this chamber, extending coverage to private insurance, following a successful test track with the State Employee Health Plan, and should be withdrawn as requested and placed on General Orders for debate.

Senator Rob Olson  
District 23

## ORIGINAL MOTION

Senator Emler moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 287; SB 306; Sub SB 307; H Sub for SB 425; S Sub for HB 2597.**

## CONFERENCE COMMITTEE REPORTS

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **H Sub for SB 287** 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. 287 as follows:

On page 4, in line 2, after "administrator" by inserting "and approved by the governor"; in line 4, by striking "geographic"; by striking all in lines 5 through 7 and inserting "The administrator's salary schedule for unclassified positions shall be reported to the credit union council annually."; in line 19, by striking the second "and" and inserting a comma; in line 20, before the period by inserting "and shall receive compensation in accordance with an equitable salary schedule established by the administrator and approved by the governor for all unclassified positions"; in line 25, by striking "geographic";

On page 6, following line 13, by inserting the following:

"Sec. 4. K.S.A. 2011 Supp. 9-508 is hereby amended to read as follows: 9-508. As used in this act:

(a) "Agent" means an entity or person designated by the licensee, or by an exempt entity, to engage in the business of transmitting money on behalf of the licensee, or an exempt entity, at one or more physical locations throughout the state or through the internet;

~~(a)~~(b) "commissioner" means the state bank commissioner;

~~(b)~~(c) "electronic instrument" means a card or other tangible object for the transmission or payment of money, including a stored value card or device which contains a microprocessor chip, magnetic stripe or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in

goods or services;

~~(e)~~(d) "monetary value" means a medium of exchange, whether or not redeemable in money;

~~(d)~~(c) "money transmission" means to engage in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States by wire, facsimile, electronic means or any other means;

~~(e)~~(f) "outstanding payment instrument" means any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any money order or instrument issued by the licensee which has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee;

~~(f)~~(g) "payment instrument" means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services;

~~(g)~~(h) "permissible investments" means:

(1) Cash;

~~(2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;~~

~~(3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the federal reserve system;~~

~~(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;~~

~~(5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any general obligations of any state, municipality or any political subdivision thereof;~~

~~(6) deposits in a demand or interest bearing account with a domestic federally insured depository institution, including certificates of deposit;~~

~~(3) debt obligations of a domestic federally insured depository institution;~~

~~(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;~~

~~(5) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States;~~

~~(6) obligations that a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;~~

~~(7) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;~~

(7) ~~any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;~~

(8) receivables which are due to a licensee from its authorized such licensee's agents pursuant to a contract, which are not past due or doubtful of collection and which do not exceed in the aggregate 20% of the total required permissible investments pursuant to K.S.A. 9-513b, and amendments thereto;

(9) any other investment or security device approved by the commissioner.

~~(h)(i)~~ (i) "Person" means any individual, partnership, association, joint-stock association, trust, corporation or any other form of business enterprise authorized to do business in this state; and

~~(h)(j)~~ (j) "stored value" means monetary value that is evidenced by an electronic record.

Sec. 5. K.S.A. 2011 Supp. 9-509 is hereby amended to read as follows: 9-509. (a) No person shall engage in the business of selling, issuing or delivering its payment instrument, check, draft, money order, personal money order, bill of exchange, evidence of indebtedness or other instrument for the transmission or payment of money or otherwise engage in the business of money transmission with a resident of this state, or, except as provided in K.S.A. 9-510, and amendments thereto, act as agent for another in the transmission of money as a service or for a fee or other consideration, unless such person obtains a license from the commissioner.

~~(b)(1)~~ An application for a license shall be submitted on forms prescribed by the commissioner. The application shall be accompanied by an application fee as established by rules and regulations adopted by the commissioner in the form and manner prescribed by the commissioner. The application shall be accompanied by nonrefundable fees established by the commissioner for the license and each agent location. Such fees shall be due annually on July 1. A license shall be renewed by filing with the commissioner a complete application and nonrefundable application fees at least 30 days prior to expiration of the license as reflected on the face of the license certificate. The commissioner shall determine the amount of such fees to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year. For the purposes of this subsection, "each agent location" means each physical location within the state where money transmission is conducted, including, but not limited to, branch offices, authorized vendor offices, delegate offices, kiosks and drop boxes.

(2) The commissioner may require fingerprinting of any individual, officer, director, partner, member, shareholder or any other person related to the application deemed necessary by the commissioner. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, or in the case of an applicant company, the persons associated with the company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application. If the applicant is a publicly traded corporation or a subsidiary of a publicly traded

corporation, no fingerprint check shall be required.

(3) In addition, each person submitting an application shall meet the following requirements:

(A) The net worth of such person shall be at all times not less than \$250,000, as shown by an audited financial statement and certified to by an owner, a partner or officer of the corporation or other entity ~~in a form prescribed by the commissioner and filed in the commissioner's office~~ filed in the form and manner prescribed by the commissioner. The commissioner may require any person to file a statement at any other time upon request;

(B) such person shall deposit and at all times keep on deposit with the state treasurer, or a bank in this state approved by the commissioner, cash or securities satisfactory to the commissioner in an amount not less than \$200,000. The commissioner may increase the amount of cash or securities required up to a maximum of \$500,000 upon the basis of the impaired financial condition of a person, as evidenced by a reduction in net worth, financial losses or other relevant criteria as determined by the commissioner;

(C) in lieu of the deposit of cash or securities required by paragraph (B), such person may give a surety bond in an amount equal to that required for the deposit of cash or securities, in a form satisfactory to the commissioner and issued by a company authorized to do business in this state, which bond shall be payable to the office of the state bank commissioner and be filed with the commissioner. ~~The deposit of cash or securities or surety bond shall be for the protection and benefit of purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person or for the protection of those for whom such person has agreed to act as agent in the transmission of monetary value and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of monetary value. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person; and~~

(D) such person shall submit a list to the commissioner of the names and addresses of other persons who are authorized to act as ~~selling~~ agents for transactions with Kansas residents.

(c) ~~The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act at such person's expense to verify compliance with state and federal law~~ deposit of cash, securities or surety bond required by this section shall be subject to:

(1) Payment to the commissioner for the protection and benefit of purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person, and those for whom such person has agreed to act as agent in transmission of monetary value and to secure the faithful performance of the obligations

of such person in respect to the receipt, handling, transmission and payment of monetary value; and

(2) payment to the commissioner for satisfaction of any expenses, fines, fees or refunds due pursuant to this act, levied by the commissioner or that become lawfully due pursuant to a final judgment or order.

(d) The aggregate liability of the surety for all breaches of the conditions of the bond, in no event, shall exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person.

(e) (1) The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act, at such person's expense, to verify compliance with state and federal law.

(2) For purposes of investigation, examination or other proceeding under this act, the commissioner may administer or cause to be administered oaths, subpoena witnesses and documents, compel the attendance of witnesses, take evidence and require the production of any document that the commissioner determines to be relevant to the inquiry.

Sec. 6. K.S.A. 2011 Supp. 9-510 is hereby amended to read as follows: 9-510. ~~Any person complying with the provisions of this act may engage in such business.~~ A licensee may engage in the business of money transmission at one or more locations in this state and through or by means of such agents as such person may designate and appoint from time to time. A verified list of agents shall be furnished annually to the commissioner by persons operating hereunder, on a date prescribed by the commissioner. No such agent shall be required to comply with the licensing provisions of this act.

Sec. 7. K.S.A. 2011 Supp. 9-511 is hereby amended to read as follows: 9-511. ~~This act shall not apply to banks, building and loan associations, savings and loan associations, savings banks or credit unions organized under the laws of and subject to the supervision of this state, another state or the United States, or to the government of the United States and its agencies, or to the state of Kansas and its agencies. This act also shall not apply to the distribution, transmission or payment of money as a part of the lawful practice of law, bookkeeping, accounting or real estate sales or brokerage or as an incidental and necessary part of any lawful business activity.~~ This act shall not apply to:

(a) (1) Banks, building and loan associations, savings and loan associations, savings banks or credit unions, including agents of any of these business entities, organized under the laws of and subject to the supervision of this state, another state or the United States;

(2) the government of the United States and its agencies, including agents of the government and its agencies; or

(3) the state of Kansas and its agencies, including agents of the state of Kansas and

its agencies.

(b) This act also shall not apply to the distribution, transmission or payment of money as a part of the lawful practice of law, bookkeeping, accounting or real estate sales or brokerage or as an incidental and necessary part of any lawful business activity.

Sec. 8. K.S.A. 2011 Supp. 9-512 is hereby amended to read as follows: 9-512. (a) The commissioner, after notice and an opportunity for hearing, may issue an order to address any violation of this act:

(1) Assessing a fine against any person who violates this act, or rules and regulations adopted thereto, in an amount not to exceed \$5,000 per violation;

(2) assessing the agency's operating costs and expenses for investigating and enforcing this act;

(3) requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation;

(4) barring the person from future application for licensure pursuant to the act; and

(5) requiring such affirmative action as in the judgment of the commissioner which will carry out the purposes of this act.

(b) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act, rules and regulations adopted thereto, or an order issued pursuant to this act.

(c) Any person who knowingly violates any provision of this act shall be guilty of a severity level 9, nonperson felony. Each transaction in violation of this act and each day that a violation continues shall be a separate offense except that whenever a corporation shall violate any provision of this act, such violation shall be deemed to be also that of the. Whenever a corporation violates any provision of this act, such violation shall be attributed to individual directors, officers; and agents of such corporation who shall have authorized, ordered; or done performed any of the acts constituting such violation in whole or in part.

(b)(d) A corporation and its directors, officers; and agents may each be prosecuted separately for violations of this act and the acquittal or conviction of one such director, officer or agent shall not abate the prosecution of the others.

(e)(c) Violations of this act also may be enjoined or the violators ousted from continuing such violations by proceedings brought by the county attorney of the proper county or by the attorney general, regardless of whether or not criminal proceedings have been instituted. Whenever it appears that a person has violated, or is likely to violate, this act, rules and regulations adopted thereunder, or an order issued pursuant to this act, then the commissioner may bring an action for injunctive relief to enjoin the violation or enforce compliance, regardless of whether or not criminal proceedings have been instituted. Any person who engages in activities that are regulated and require a license under this act shall be considered to have consented to the jurisdiction of the courts of this state for all actions arising under this act.

Sec. 9. K.S.A. 2011 Supp. 9-513 is hereby amended to read as follows: 9-513.

(a) If any sentence, clause, provision or section of this act or the applicability thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the validity of the remainder of this act or its applicability to other persons or circumstances. It shall be presumed conclusively that the legislature would have enacted the remainder of this act without the sentence, clause, provision or section held invalidly enacted or applied.



(b)—This act shall be interpreted by the commissioner for the purpose of protecting the citizens of this state, against financial loss, who purchase payment instruments or who give money or control of their funds or credit into the custody of another person for transmission, regardless of whether the transmitter has any office, facility, agent or other physical presence in the state.

Sec. 10. K.S.A. 2011 Supp. 9-513a is hereby amended to read as follows: 9-513a.

~~(a) The commissioner shall not issue a license unless the commissioner is of the opinion that the person will be able to and will perform its obligations to purchasers of money transmission services and purchasers, payees and holders of money orders sold by it and its agents, and that the financial responsibility, character, reputation, experience and general fitness of the person, its senior officers, directors and principal stockholders are such to warrant belief that the business will be operated efficiently, fairly and in the public interest.~~

~~(b) The commissioner may, after notice and an opportunity for a hearing, revoke a license if the commissioner finds:~~

~~(1) The person may be financially unable to perform its obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of its obligations related to the person's money transmission business;~~

~~(2) the person no longer meets a requirement for initial granting of a license;~~

~~(3) the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit;~~

~~(4) there has been entry of a federal or state administrative order against the person for violation of any law or any regulation applicable to the conduct of the person's money transmission business;~~

~~(5) a refusal by the person to permit an investigation by the commissioner;~~

~~(6) a failure to pay to the commissioner any fee required by this act; or~~

~~(7) a failure to comply with any order of the commissioner. The commissioner, after notice and an opportunity for a hearing, may deny, suspend, revoke or refuse to renew a license issued pursuant to this act, or issue a cease and desist order if the commissioner finds any of the following are applicable to any person who is required to be licensed under this act or such person's agent:~~

~~(a) The financial responsibility, character, reputation, experience and general fitness of the person, such person's senior officers, directors and principal stockholders are such to warrant the belief that the business may not be operated efficiently, fairly and in the public interest;~~

~~(b) the person may be financially unable to perform such person's obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of such person's obligations related to the person's money transmission business;~~

~~(c) the person no longer meets a requirement for initial granting of a license;~~

~~(d) the person has filed with the commissioner any document or statement falsely representing or omitting a material fact;~~

~~(e) the person concealed a fact or a condition exists which would clearly have justified the commissioner's refusal to grant a license had the fact or condition been known to exist at the time the application for the license was made;~~

~~(f) the person or a senior officer, director or a stockholder who owns more than~~

10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit;

(g) there has been entry of a federal or state administrative order against the person for violation of any rule and regulation applicable to the conduct of the person's money transmission business;

(h) the person refused to permit an examination or investigation by the commissioner;

(i) a failure to pay to the commissioner any fee required by this act;

(j) the person has engaged in any transaction, practice or business conduct that is fraudulent or deceptive in connection with the business of money transmission;

(k) the person advertises, displays, distributes, broadcasts or televises any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for the transmission of money;

(l) the person fails to keep and maintain sufficient records to permit an audit to satisfactorily disclose to the commissioner the licensee's compliance with the provisions of the act;

(m) the person has been the subject of any disciplinary action by this or any other state or federal agency;

(n) a final judgment has been entered against the person in a civil action and the commissioner finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be licensed; or

(o) the person has violated any order issued by the commissioner, any provision of this act, any rule and regulation adopted thereto, or any other state or federal law applicable to money transmission.

Sec. 11. K.S.A. 2011 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (b) or (c).

(b) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(c) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(d) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(e) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

~~(e)~~(f) The provisions of subsection (a) shall expire on July 1, 2016, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2016.

Sec. 12. K.S.A. 9-1722 is hereby amended to read as follows: 9-1722. (a) A notice

of a proposed bank acquisition filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:

(1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including such person's material business activities and affiliations during the past five years and a description of any material pending legal or administrative proceedings in which the person is a party and any criminal indictment or conviction of such person by a state or federal court;

(2) a statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the filing of the notice. Individuals who own 10% or more shares in a bank holding company, as defined in K.S.A. 9-519, and amendments thereto, shall file the financial information required by this paragraph;

(3) the terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

(4) the identity, source and amount of the funds or other considerations used or to be used in making the acquisition and, if any part of these funds or other considerations has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements or understandings with such persons;

(5) any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management;

(6) the identification of any person employed, retained or to be compensated by the acquiring party or by any person on such person's behalf to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition and a brief description of the terms of such employment, retainer or arrangement for compensation;

(7) copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

(8) any additional relevant information in such forms as the department may require by specific request in connection with any particular notice.

(b) With regard to any trust company which files a notice pursuant to this section, the commissioner may require fingerprinting of any proposed officer, director, shareholder or any other person deemed necessary by the commissioner. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the

qualifications and fitness of the persons proposing to acquire the trust company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(c) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of a statement filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

~~(e)~~(d) At the time of filing a notice of a proposed bank acquisition pursuant to K.S.A. 9-1721, and amendments thereto, or an application filed pursuant to subsection ~~(b)~~(c), the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner.

Sec. 13. K.S.A. 9-1801 is hereby amended to read as follows: 9-1801. (a) No bank or trust company shall be organized or incorporated under the laws of this state, nor shall any such institution transact either a banking business or a trust business in this state, until the application for its incorporation and application for authority to do business has been submitted to and approved by the board. The board shall approve or disapprove the organization and establishment of any such institution in the city or town in which the same is sought to be located. The form for making any such application shall be prescribed by the board and any application made to the board shall contain such information as it shall require. The board may require fingerprinting of any officer, director, incorporator or any other person of the proposed trust company related to the application deemed necessary by the board. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons associated with the applicant trust company to be issued a charter. Whenever the board requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application. The board shall not approve any such application until it first investigates and examines such application and the applicants.

(b) If upon the dissolution, insolvency or appointment of a receiver of any bank, trust company, national bank association, savings and loan association, savings bank or credit union, it is the opinion of the commissioner that by reason of the loss of services in the community, an emergency exists which may result in serious inconvenience or losses to the depositors or the public interest in the community, the commissioner may accept and approve an application for incorporation and application for authority to do business from applicants for the organization and establishment of a successor bank or trust company.

Sec. 14. K.S.A. 2011 Supp. 75-3135 is hereby amended to read as follows: 75-3135. (a) The bank commissioner shall receive an annual salary to be fixed by the governor with the approval of the state finance council. The bank commissioner is hereby authorized to appoint two deputy commissioners who shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the bank commissioner in accordance with an equitable salary schedule established by the bank commissioner and approved by the governor for all unclassified positions. The

average of the salaries shall not exceed the average compensation of corresponding state regulatory positions in similar areas. The bank commissioner's salary schedule shall be reported to the state banking board annually.

(b) (1) The deputy commissioner of the banking division shall supervise all banks and trust companies as directed by the bank commissioner and shall perform such other duties as may be required by the bank commissioner.

(2) The deputy commissioner of the consumer and mortgage lending division shall supervise all consumer and mortgage lending functions as directed by the bank commissioner and shall perform such other duties as may be required by the bank commissioner.

(c) If the office of the bank commissioner is vacant or if the bank commissioner is absent or unable to act, the deputy commissioner of the banking division shall be the acting bank commissioner.

(d) (1) The deputy commissioner of the banking division shall have at least five years' experience as a state bank officer or five years' experience as a state or federal regulator.

(2) The deputy commissioner of consumer and mortgage lending shall have at least five years' experience in consumer or mortgage lending, regulatory, legal or related experience.

(e) The bank commissioner is also authorized to appoint or contract for, in accordance with the civil service law, such special assistants and other employees as are necessary to properly discharge the duties of the office.

Sec. 15. K.S.A. 2011 Supp. 75-3135a is hereby amended to read as follows: 75-3135a. (a) (1) Subject to the provisions of appropriation acts, the bank commissioner may appoint regional managers ~~and~~ financial examiner administrators, case managers, examiners and a business manager within the office of the state bank commissioner as determined necessary by the bank commissioner to effectively carry out the mission of the office. ~~All regional managers and financial examiner administrators~~ Each regional manager, financial examiner administrator, case manager, examiner or business manager appointed after the effective date of this act shall be in the unclassified service under the Kansas civil service act, shall have special training and qualifications for such positions, ~~shall serve at the pleasure of the bank commissioner and shall receive compensation fixed by the bank commissioner and approved by the governor and shall receive compensation in accordance with an equitable salary schedule established by the bank commissioner and approved by the governor for all unclassified positions.~~

(2) The average of the amount of compensation in the bank commissioner's salary schedule for such appointed positions in the unclassified service shall not exceed the average compensation of corresponding state regulatory positions in similar areas. The bank commissioner's salary schedule for unclassified positions shall be reported to the state banking board annually.

(b) Nothing in subsection (a) shall affect the classified status of any person employed in the office of the state bank commissioner on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the bank commissioner pursuant to K.S.A. 75-2948, and amendments thereto.

Sec. 16. K.S.A. 50-1116 is hereby amended to read as follows: 50-1116. (a) K.S.A. 50-1116 through 50-1135, and amendments thereto, shall be known and may be cited as

the Kansas credit services organization act.

(b) Any ~~person-individual~~ licensed to practice law in this state acting within the course and scope of such ~~person's-individual's~~ practice as an attorney, and such individual's law firm, shall be exempt from the provisions of this act.

Sec. 17. K.S.A. 50-1117 is hereby amended to read as follows: 50-1117. Definitions as used in this act: (a) "Commissioner" means the state bank commissioner.

(b) "Consumer" means an individual who is a resident of this state.

(c) "Credit services organization" means a person who engages in, or holds out to the public as willing to engage in, the business of debt management services for a fee, compensation or gain, or in the expectation of a fee, compensation or gain.

(d) "Debt management service" means:

(1) Receiving or offering to receive funds from a consumer for the purpose of distributing the funds among such consumer's creditors in full or partial payment of such consumer's debts;

(2) improving or offering to improve a consumer's credit record, history or rating;

or  
(3) negotiating or offering to negotiate to defer or reduce a consumer's obligations with respect to credit extended by others.

(e) "Insolvent" means a person whose debts exceed their assets.

(f) "Law firm" means a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(g) "Person" means any individual, corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity.

~~(g)~~(h) "Related interest" means a person:

(1) With respect to an individual who is:

(A) The spouse of the individual;

(B) a brother, brother-in-law, sister, sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse;

and  
(D) any other relative, by blood, adoption or marriage, of the individual or such individual's spouse who shares the same residence with the individual.

(2) With respect to a corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity, which is:

(A) Directly or indirectly controlling, controlled by or under common control by a person; or

(B) an officer or director of a person or a person performing similar functions.

~~(h)~~(i) "Registrant" means a person who is registered by the commissioner as a credit services organization.

~~(i)~~(j) "Trust account" means an account established by the applicant or registrant in a federally insured financial institution used to hold funds paid by consumers to a credit services organization for disbursement to creditors of consumers that is designated as a trust account or other appropriate designation indicating the funds in the account are:

(1) Not funds of the applicant or registrant or its owners, officers or employees; and

(2) unavailable to creditors of the applicant or registrant.";

And by renumbering sections accordingly;

Also on page 6, in line 14, by striking all after "K.S.A."; by striking all in line 15; in line 16, by striking all before "are" and inserting "9-1722, 9-1801, 17-2204, 17-2234, 17-2246, 17-2250, 17-2251, 17-2252, 17-2253, 17-2254, 17-2255, 17-2256, 17-2257, 17-2258, 17-2259, 17-2261, 17-2265, 17-2266, 17-2267, 50-1116 and 50-1117 and K.S.A. 2011 Supp. 9-508, 9-509, 9-510, 9-511, 9-512, 9-513, 9-513a, 9-513c, 75-3135 and 75-3135a";

Also on page 6, in line 18, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the second "and" and inserting "the powers and duties of certain state officials who regulate certain financial institutions; relating to the powers and duties of the state bank commissioner; relating to the powers and duties of the credit union administrator; amending K.S.A. 9-1722, 9-1801, 17-2204, 17-2234, 17-2246, 50-1116 and 50-1117 and K.S.A. 2011 Supp. 9-508, 9-509, 9-510, 9-511, 9-512, 9-513, 9-513a, 9-513c, 75-3135 and 75-3135a";

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

FORREST KNOX  
 RICHARD J. PROEHL  
 ROBERT GRANT  
*Conferees on part of House*  
 RUTH TEICHMAN  
 TY MASTERTON  
 ALLEN C. SCHMIDT  
*Conferees on part of Senate*

Senator Teichman moved the Senate adopt the Conference Committee Report on **H Sub for SB 287**.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORTS

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 306** submits the following report:

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

On page 1, by striking all in lines 6 through 36;

By striking all on page 2 and inserting:

"Section 1. K.S.A. 2011 Supp. 75-5743 is hereby amended to read as follows: 75-

5743. (a) All employers and labor organizations doing business in this state shall submit information concerning each new employee to the secretary of labor within 20 business days of the hiring, rehiring or return to work of the newly hired employee or within 20 business days from the date the newly hired employee first receives wages or other compensation from the employer. The information shall include the newly hired employee's name, address ~~and~~, social security number and the date services for remuneration were first performed by the newly hired employee and the employer's name, address ~~and~~, federal tax identification number and any other information as may be required by section 453A of the social security act, 42 U.S.C. § 653a.

(b) For purposes of this section, the term "newly hired employee" means an employee who has not previously been employed by the employer, or was previously employed by the employer, but has been separated from such prior employment for at least 60 consecutive days.

~~(b)~~(c) The department of social and rehabilitation services shall have access to such information to match the employee's social security number with title IV-D cases.

Sec. 2. K.S.A. 2011 Supp. 75-5743 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, by striking all in lines 1 through 3 and inserting:

"AN ACT concerning employers, labor organizations and certain contractors; amending K.S.A. 2011 Supp. 75-5743 and repealing the existing section.";

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

PAT COLLOTON  
LANCE KINZER  
MELODY MCCRAY-MILLER  
*Conferees on part of House*

THOMAS C. OWENS  
JEFF KING  
DAVID HALEY  
*Conferees on part of Senate*

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 306**.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORTS

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **Substitute for SB 307** submits the following report:



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

On page 1, following line 6, by inserting:

"Section 1. K.S.A. 2011 Supp. 21-5107 is hereby amended to read as follows: 21-5107. (a) A prosecution for murder, terrorism or illegal use of weapons of mass destruction may be commenced at any time.

(b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(c) Except as provided in subsection (e), a prosecution for a sexually violent offense as defined in K.S.A. 22-3717, and amendments thereto, shall be commenced within the limitation of time provided by the law pertaining to such offense or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

(d) Except as provided by subsection (e), a prosecution for any crime, as defined in K.S.A. 2011 Supp. 21-5102, and amendments thereto, not governed by subsections (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include any period in which:

(1) The accused is absent from the state;

(2) the accused is concealed within the state so that process cannot be served upon the accused;

(3) the fact of the crime is concealed;

(4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;

(B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in ~~this section~~ subsection (e)(6) later than the date the

victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

(f) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed except if the offense charged is a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, and the victim was under 18 years of age at the time of the offense, then time shall start to run on the day after the victim's 18<sup>th</sup> birthday.

(g) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.";

On page 2, following line 19, by inserting:

"Sec. 3. K.S.A. 2011 Supp. 21-5909 is hereby amended to read as follows: 21-5909. (a) Intimidation of a witness or victim is preventing or dissuading, or attempting to prevent or dissuade, with an intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration of justice:

(1) Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or

(2) any witness, victim or person acting on behalf of a victim from:

(A) Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer, the secretary of the department of social and rehabilitation services or any agent or representative of the secretary, or any person required to make a report pursuant to K.S.A. 2011 Supp. 38-2223, and amendments thereto;

(B) causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole or assignment to a community correctional services program to be reported and prosecuted, and assisting in its prosecution;

(C) causing a civil action to be filed and prosecuted and assisting in its prosecution; or

(D) arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

(b) Aggravated intimidation of a witness or victim is intimidation of a witness or victim, as defined in subsection (a), when the:

(1) Act is accompanied by an expressed or implied threat of force or violence against a witness, victim or other person or the property of any witness, victim or other person;

(2) act is in furtherance of a conspiracy;

(3) the act is committed by a person who has been previously convicted of corruptly influencing a witness or has been convicted of a violation of this section or any federal or other state's statute which, if the act prosecuted was committed in this

state, would be a violation of this section;

(4) witness or victim is under 18 years of age; or  
 (5) act is committed for pecuniary gain or for any other consideration by a person acting upon the request of another person.

(c) (1) Intimidation of a witness or victim is a class B person misdemeanor.

(2) Aggravated intimidation of a witness or victim is a severity level 6, person felony.";

On page 3, in line 40, after "(g)" by inserting "If the defendant, or defendant's attorney in consultation with the defendant, requests a delay and such delay is granted, the delay shall be charged to the defendant regardless of the reasons for making the request, unless there is prosecutorial misconduct related to such delay.";

And by renumbering sections accordingly;

On page 4, in line 22, by striking "21-5109" and inserting "21-5107, 21-5109 and 21-5909";

On page 1, in the title, in line 2, following the first "to" by inserting "the statute of limitations for sexually violent crimes when the victim is a child"; also in line 2, by striking "relating to" and inserting "intimidation of a witness"; in line 4, by striking "21-5109" and inserting "21-5107, 21-5109 and 21-5909";

Senator Owens moved the Senate adopt the Conference Committee Report on **Sub SB 307**.

Senator Vratil made a substitute motion to not adopt the conference committee report on **Sub SB 307** and a new conference committee be appointed.

The President appointed Senators Owens, King and Haley as second conferees on the part of the Senate.

#### CONFERENCE COMMITTEE REPORTS

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **H Sub for SB 425** submits the following report:

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

On page 1, in line 8, by striking "2017" and inserting "2013"; in line 9, by striking "2018" and inserting "2014";

MARC RHOADES

KASHA KELLEY

BILL FEUERBORN

*Conferees on part of House*

THOMAS C. OWENS

JEFF KING

DAVID HALEY

*Conferees on part of Senate*

Senator Owens moved the Senate adopt the Conference Committee Report on **H Sub for SB 425**.

Senator Vratil made a substitute motion to not adopt the conference committee report on **H Sub for SB 425** and a new conference committee be appointed.

The President appointed Senators Owens, King and Haley as second conferees on the

part of the Senate.

### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **S Sub for HB 2597** 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. 2597, as follows:

On page 2, in line 38, after "(8)" by inserting "(A)"; in line 41, after the period by inserting "(B)";

On page 3, in line 3, by striking all after the period; by striking all in lines 4 through 6; in line 7, by striking all before "Each" and inserting "(C) (i)"; in line 15, by striking all after the period; by striking all in lines 16 through 21; in line 22, before "For" by inserting "(ii)"; in line 27, after the period by inserting "(iii)"; in line 31, after the period, by inserting the following:

"(D) The secretary and the state corporation commission shall enter into a memorandum of agreement for the purposes of:

- (i) Administering the land-spreading application and approval process;
- (ii) monitoring compliance; and
- (iii) establishing mechanisms for enforcement and remedial actions.

(E) On or before January 1, 2014, the secretary, in coordination with the state corporation commission, shall adopt rules and regulation governing land-spreading of waste generated by drilling oil and gas wells. In developing such rules and regulations, the secretary and the state corporation commission shall seek advice and comments from groundwater management districts and other groups or persons knowledgeable and experienced in areas related to this paragraph.

(F)";

Also on page 3, in line 32, by striking all after "report"; in line 33, by striking all before the second "to"; in line 36, after the period by inserting "Such report shall include, but not be limited to, information concerning the implementation and status of land-spreading procedures and the costs associated with the regulation of land-spreading pursuant to this paragraph.

(G) The provisions of this paragraph shall expire on July 1, 2015.";

On page 4, following line 6, by inserting:

"New Sec. 2. (a) The board of county commissioners of each county shall establish a county oil and gas valuation depletion trust fund if the county is to receive moneys from the oil and gas valuation depletion trust fund created under the provisions of K.S.A. 2011 Supp. 79-4231, and amendments thereto. The county treasurer shall be responsible for the administration of such fund.

(b) Upon receipt of an authorization for distribution of county oil and gas valuation depletion trust fund moneys pursuant to K.S.A. 2011 Supp. 79-4231, and amendments thereto, the county treasurer shall release 20% of the moneys credited to such county's trust account to the county general fund for expenditure as directed by the board.

(c) Moneys credited to the county oil and gas valuation depletion trust fund shall be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In making the budgets of such county, the amounts credited to, and the amount on hand

in, such fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such county. Moneys in such fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

Sec. 3. K.S.A. 2011 Supp. 19-101a is hereby amended to read as follows: 19-101a.

(a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not affect the courts located therein.

(3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271 – 74<sup>th</sup> congress, or amendments thereof.

(6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(7) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(8) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(9) No county may levy *ad valorem* taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(10) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(12) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(13) Counties may not exempt from or effect changes in K.S.A. 19-430, and

amendments thereto.

(14) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(16) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(17) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(18) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(19) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(20) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(21) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(22) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(23) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(24) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(26) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(27) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, 65-3001 through 65-3028, and amendments thereto.

(28) Counties may not exempt from or effect changes in K.S.A. 2011 Supp. 80-121, and amendments thereto.

(29) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(30) Counties may not exempt from or effect changes in the wireless enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2011 Supp. 26-601, and amendments thereto.

(32) (A) Counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).

(B) Counties may adopt resolutions which are not in conflict with the Kansas liquor control act.

(33) (A) Counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).

(B) Counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.

(34) Counties may not exempt from or effect changes in the Kansas lottery act.

(35) Counties may not exempt from or effect changes in the Kansas expanded lottery act.

(36) Counties may neither exempt from nor effect changes to the eminent domain procedure act.

(37) Any county granted authority pursuant to the provisions of K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be subject to the limitations and prohibitions imposed under K.S.A. 19-5001 through 19-5005, and amendments thereto.

(38) Except as otherwise specifically authorized by K.S.A. 19-5001 through 19-5005, and amendments thereto, counties may not exercise any authority granted pursuant to K.S.A. 19-5001 through 19-5005, and amendments thereto, including the imposition or levy of any retailers' sales tax.

(39) Counties may not exempt from or effect changes in section 2, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 4. K.S.A. 2011 Supp. 79-4231 is hereby amended to read as follows: 79-4231. (a) There is hereby created in the state treasury the oil and gas valuation depletion trust fund. The director of taxation shall administer the oil and gas valuation depletion trust fund. All amounts credited to the oil and gas valuation depletion trust fund pursuant to the provisions of K.S.A. 79-4227, and amendments thereto, less the administration fee imposed under subsection (c), shall be credited to a separate trust account which shall be established within such fund for each county which in ~~fiscal year 2005~~ or any fiscal year ~~thereafter~~ had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas. Each county's trust account shall be credited in the proportion that the amount of oil and gas valuation depletion trust fund receipts collected from that county bears to the total amount of moneys credited to the oil and gas valuation depletion trust fund pursuant to K.S.A. 79-4227, and amendments thereto. Commencing July 1, ~~2008~~ 2012, and thereafter on an annual basis, ~~such moneys shall~~

remain credited in such account in trust for such county for distributions pursuant to this section the director of taxation shall certify to the director of accounts and reports the amount due the county from the county's oil and gas depletion trust account on October 1 based on all amounts credited thereto, and the director of accounts and reports shall draw a warrant upon the state treasurer in favor of each such county for the amount credited to such county's trust account. Upon receipt of such warrant, the treasurer of the county shall credit the same to the oil and gas valuation depletion trust fund of the county established in section 2, and amendments thereto. Except that the director of taxation shall transfer all of the moneys credited to the Wilson county trust account to the Wilson county capital improvement fund in any such tax year until the payment of all costs of financing projects authorized pursuant to K.S.A. 2011 Supp. 74-8961, and amendments thereto, has been completed, and at that time the provisions of this subsection related to distributions to the Wilson county treasurer shall be applicable as provided in this subsection.

(b) For any tax year that the oil and gas leasehold *ad valorem* valuation of any county, which has a trust account established and maintained in ~~the a county~~ oil and gas valuation depletion trust fund as provided by ~~this section 2, and amendments thereto,~~ is less than 50% of the oil and gas leasehold *ad valorem* valuation of such county for the second succeeding tax year which commences January 1 following the end of the fiscal year in which the county had \$100,000 or more in receipts of the excise tax upon the production of oil and gas ~~and the county had a trust account established in the oil and gas valuation depletion trust fund as provided by this section,~~ as certified by the property valuation division, on or before January 15 of the year following such tax year, the director of taxation shall ~~distribute~~ certify the oil and gas leasehold *ad valorem* valuation amounts for each county and shall authorize the county treasurer to release 20% of the moneys credited to such county's trust account oil and gas valuation depletion trust fund to the county treasurer general fund of such county, except that the director of taxation shall transfer all of the moneys credited to the Wilson county trust account to the Wilson county capital improvement fund in any such tax year until the payment of all costs of financing projects authorized pursuant to K.S.A. 2011 Supp. 74-8961, and amendments thereto, has been completed, and at that time the provisions of this subsection related to distributions to the Wilson county treasurer shall be applicable as provided in this subsection. In any year in which a county's oil and gas leasehold valuation is 50% or more of the oil and gas leasehold valuation of such county for tax year as described in this subsection, such county shall not receive ~~a an authorization for distribution of trust fund moneys pursuant to this section for such tax year. On an annual basis, the director of taxation shall certify to the director of accounts and reports the counties entitled to a distribution pursuant to this section. The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from such county's trust account in the oil and gas valuation depletion trust fund upon vouchers approved by the director of taxation.~~

(c) The director of taxation shall impose and collect an administration fee for the administration of the oil and gas valuation depletion trust fund, this section and the provisions of K.S.A. 2011 Supp. 79-4227, and amendments thereto, equal to 2% of the amount credited to the oil and gas valuation depletion trust fund. The administration fee shall be imposed and collected prior to crediting any amount to any trust account established and maintained for a county in the oil and gas valuation depletion trust fund.



All amounts collected for the administration fee shall be transferred from the oil and gas valuation depletion trust fund to the state general fund.

(d) All moneys credited to the oil and gas valuation depletion trust fund upon the effective date of this act shall be distributed to each county not later than 30 days following the effective date of this act for deposit in the county's oil and gas valuation depletion trust fund established pursuant to the provisions of section 2, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 4, in line 7, by striking "65-3407c is" and inserting "19-101a, 65-3407c and 79-4231 are";

On page 1, in the title, in line 1, by striking "solid waste; relating to permit exemptions" and inserting "oil and gas"; in line 2, after "Supp." by inserting "19-101a,"; also in line 2, after "65-3407c" by inserting "and 79-4231"; also in line 2, by striking "section" and inserting "sections";

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

RALPH OSTMEYER  
CAROLYN MCGINN  
MARCI FRANCISCO  
*Conferees on part of Senate*

LARRY R. POWELL  
DANIEL J. KERSCHEN  
JERRY D. WILLIAMS  
*Conferees on part of House*

Senator Ostmeyer moved the Senate adopt the Conference Committee Report on **S Sub for HB 2597**.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Schodorf.

The Conference Committee Report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I am voting in favor of **Senate Substitute for HB 2597** because it provides for so called "industry best practices" for horizontal drilling and moves us forward with needed rural economic development through the oil and gas industry and supporting businesses. However, the spreading of horizontal drilling waste requires close observation, lab and field-site testing, and environmentally sound management practices - both initially and over the long term. Mr. President, as a concerned citizen and as a state senator, I support the responsible expansion of this industry in Kansas with the expectation that those agencies charged with oversight and management will be

staffed and trained to fully perform those responsibilities ensuring the latest environmental safety standards are met. — ALLEN C. SCHMIDT

Senators Kelly and Kultala request the record to show they concur with the “Explanation of Vote” by Senator Schmidt on **Senate Substitute for HB 2597**.

### REPORT ON ENROLLED BILLS

**H Sub SB 79; SB 83; H Sub for SB 160; SB 300** reported correctly enrolled, properly signed and presented to the Governor on May 15, 2012.

On motion of Senator Emler the Senate recessed until 5:00 p.m.

—

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

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. **SCR 1619**—  
By Committee on Federal and State Affairs

A PROPOSITION to revise article 10 of the constitution of the state of Kansas; relating to reapportionment of congressional districts, legislative districts and state board of education member districts.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:*

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 10 of the constitution of the state of Kansas is hereby amended to read as follows:

"Article 10.—APPORTIONMENT OF ~~THE LEGISLATURE~~  
CONGRESSIONAL, LEGISLATIVE AND STATE BOARD OF EDUCATION  
MEMBER DISTRICTS"

**"§ 1. Reapportionment of senatorial and representative districts required.** ~~(a) At its regular session in 1989, the legislature shall by law reapportion the state representative districts, the state senatorial districts or both the state representative and senatorial districts upon the basis of the latest census of the inhabitants of the state taken by authority of chapter 61 of the 1987 Session Laws of Kansas. At its regular session in 1992 2022, and at its regular session every tenth year thereafter, the legislature shall by law reapportion the United States congressional districts, the state senatorial districts and, the state representative districts and the state board of education member districts as provided by this article. Reapportionment of such districts shall be on the basis of the population of the state as established by the most recent census of population taken and~~

published by the United States bureau of the census. Senatorial ~~and~~, representative ~~and state board of education member~~ districts shall be reapportioned upon the basis of the population of the state adjusted: ~~(1)~~ (a) To exclude nonresident military personnel stationed within the state and nonresident students attending colleges and universities within the state; and ~~(2)~~ (b) to include military personnel stationed within the state who are residents of the state and students attending colleges and universities within the state who are residents of the state in the district of their permanent residence. Bills reapportioning legislative districts shall be published in the Kansas register immediately upon final passage and shall be effective for the next following election of legislators and thereafter until again reapportioned.

~~(b) Within 15 days after the publication of an act reapportioning the legislative districts within the time specified in (a), the attorney general shall petition the supreme court of the state to determine the validity thereof. The supreme court, within 30 days from the filing of the petition, shall enter its judgment. Should the supreme court determine that the reapportionment statute is invalid, the legislature shall enact a statute of reapportionment conforming to the judgment of the supreme court within 15 days.~~

~~(c) Upon enactment of a reapportionment to conform with a judgment under (b), the attorney general shall apply to the supreme court of the state to determine the validity thereof. The supreme court, within 10 days from the filing of such application, shall enter its judgment. Should the supreme court determine that the reapportionment statute is invalid, the legislature shall again enact a statute reapportioning the legislative districts in compliance with the direction of and conforming to the mandate of the supreme court within 15 days after entry thereof.~~

~~(d) Whenever a petition or application is filed under this section, the supreme court, in accordance with its rules, shall permit interested persons to present their views.~~

~~(e) A judgment of the supreme court of the state determining a reapportionment to be valid shall be final until the legislative districts are again reapportioned in accordance herewith.~~

*"§ 4. Establishment of redistricting commission. (a) Not later than February 15 of each year ending in one, a redistricting commission shall be established to recommend to the legislature redistricting plans for United States congressional districts, state representative districts, state senatorial districts and state board of education member districts.*

*(b) The redistricting commission shall consist of the following members:*

- (1) One shall be appointed by the majority leader of the senate;*
- (2) one shall be appointed by the majority leader of the house of representatives;*
- (3) one shall be appointed by the minority leader of the senate;*
- (4) one shall be appointed by the minority leader of the house of representatives; and*
- (5) within 30 days after the appointments described in paragraphs (1) through (4) have been made, but not later than March 15 of the year in which the*

*commission is established, the four commission members so appointed shall select, by a vote of at least three members, the fifth commission member, who shall serve as chairperson.*

*(c) Any vacancy in the membership of the redistricting commission shall be filled in the same manner as the original appointment or selection.*

*(d) No person, while a member of the commission, shall:*

*(1) Hold any federal, state or local office; or*

*(2) be an employee of the Kansas legislature, state board of education or United States congress.*

*(e) No person who has been a member of the redistricting commission shall be eligible, within two years after being a member of the commission, to:*

*(1) Be a member or employee of the Kansas legislature or state board of education; or*

*(2) hold any appointive office.*

*(f) The legislature shall provide by law for payment of compensation and expenses of members of the redistricting commission and for adequate staff, office space, equipment and materials for the commission.*

*(g) The terms of members of the redistricting commission shall expire on July 1 of each year ending in two, and the commission shall be inactive until reestablishment of the commission pursuant to this section.*

*"§ 5. Commission procedure and recommendations. (a) The redistricting commission shall establish rules and procedures as necessary to carry out the commission's functions. Such rules and procedures shall include rules requiring formal submission to the commission of all communications with commission members. Ex parte communications with members of the commission in relation to the merits of matters before the commission shall be prohibited. Members of the commission shall report any violations of this prohibition to the attorney general and the legislature shall provide by law criminal penalties for such violations.*

*(b) The redistricting commission shall conduct public hearings throughout the state, including at least one public hearing in each state board of education member district.*

*(c) In recommending redistricting plans, the redistricting commission shall consider only the requirements of the constitution of the state of Kansas and federal laws, preservation of political subdivisions and preservation of communities of interest. The commission shall avoid placing more than one incumbent in a district except when necessary due to changes in the population of the state. Except as expressly provided in this subsection, the commission shall not intentionally develop districts that favor or discriminate against any individual, political party or group.*

*"§ 6. Legislative action; court review and action. (a) On or before the first day of the regular legislative session in each year ending in two, the redistricting commission shall introduce in the house of representatives a bill reapportioning the state representative districts and a bill reapportioning the United States congressional districts, and shall introduce in the senate a bill reapportioning the state senatorial districts and a bill reapportioning the state board of education member districts. Such bills shall not be subject to*

*amendment by either chamber of the legislature and each such bill shall be acted upon by each chamber within seven days after such bill is introduced in such chamber.*

*(b) If a bill introduced pursuant to subsection (a) is not enacted, the redistricting commission, within 10 days after rejection of the bill by either chamber of the legislature or veto of the bill by the governor, shall introduce another bill reapportioning such districts. If the Kansas supreme court enters a judgment that a bill introduced pursuant to subsection (a) is invalid, the redistricting commission, within 10 days after entry of such judgment, shall introduce another bill reapportioning such districts. Introduction of a bill pursuant to this section shall be in the same chamber as introduction of the original bill pursuant to subsection (a). Such bill shall not be subject to amendment by either chamber and shall be acted upon by each chamber within seven days after the bill is introduced in such chamber.*

*(c) If a bill introduced pursuant to subsection (b) is not enacted, the redistricting commission, within 10 days after rejection of the bill by either chamber of the legislature or veto of the bill by the governor, shall introduce another bill reapportioning such districts. If the Kansas supreme court enters a judgment that a bill introduced pursuant to subsection (b) is invalid, the redistricting commission, within 10 days after entry of such judgment, shall introduce another bill reapportioning such districts. Introduction of a bill pursuant to this section shall be in the same chamber as introduction of the original bill pursuant to subsection (a). Such bill shall be subject to amendment by either chamber and shall be acted upon by each chamber within 14 days after the bill is introduced in such chamber. When a bill is introduced pursuant to this subsection, the commission shall make the commission's staff and technical resources available to the legislature for use in preparation and consideration of amendments to such bill.*

*(d) If either chamber of the legislature rejects a bill introduced pursuant to this section, or the governor vetoes such bill, the chamber that rejects the bill, or the governor in the case of a veto, shall transmit to the commission a letter stating the reasons why the bill was not enacted, and the commission shall take such reasons into consideration in introducing a bill pursuant to this section, subject to the requirements of subsection (c) of section 6. Any such letter shall be signed by both the speaker of the house of representatives and the minority leader of the house of representatives or both the president of the senate and the minority leader of the senate.*

*(e) Reapportionment bills shall be published in the Kansas register immediately upon final passage and approval by the governor. The districts enacted shall be effective for the next following regular election and thereafter until again such districts are reapportioned, except that the senatorial districts shall be effective for the next following regular election at which all senators are elected.*

*(f) Within 15 days after publication of any reapportionment bills enacted pursuant to this article, the attorney general shall petition the Kansas supreme court to determine the validity of such bill. The Kansas supreme court, in accordance with its rules, shall permit interested persons to present their views.*

*Within 30 days after the filing of such petition, the Kansas supreme court shall enter its judgment. A judgment of the Kansas supreme court determining such bill to be valid shall be final until reapportionment of the districts is again required by this article.*

*"§ 7. Implementing legislation. The legislature may enact legislation, not in conflict with the provisions of this article, as reasonably necessary to implement such provisions."*

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

*"Explanatory statement. Current article 10 of the constitution of the state of Kansas governs reapportionment of state legislative districts. It provides for reapportionment by the legislature and requires it be based on the most recent census taken by the United States bureau of the census, adjusted to exclude certain military personnel and certain students residing at colleges and universities. The revision of article 10 would govern reapportionment of the United States congressional districts, state legislative districts and the state board of education member districts. Under the revision a redistricting commission would be established to recommend redistricting plans to the legislature. The legislature would enact a plan which would be subject to review by the Kansas supreme court. There would be strict deadlines for legislative action and if no plan is adopted by the deadline, the Kansas supreme court would reapportion the districts. Reapportionment of state legislative districts would be based on the most recent census taken by the United States bureau of the census, adjusted to exclude certain military personnel and certain students residing at colleges and universities.*

*"A vote for this amendment would change the procedure for reapportionment of United States congressional, state legislative and state board of education member districts.*

*"A vote against this amendment would continue the current procedures and basis for reapportionment."*

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2012 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m., Wednesday, May 16, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

