

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 3, 2024, 10:00 a.m.

The Senate was called to order by President Ty Masterson.
The roll was called with 40 senators present.
Invocation by Reverend Cecil T. Washington:

Now Is The Day, The Hour, The Time of Salvation
2 Corinthians 6:2

Heavenly Father, in 2 Corinthians 6:2, Your Word declares "Now is the day of Salvation. Now is the time for God's favor," and Your Word became the inspiration for me to write this song...

Do you know a better time to repent and confess
Do you know a better time than now
Do you know a better time to turn to God and be blessed
Do you know a better time than now
Do you know a better time to get loosed from things that bind
Do you know a better time than now
Do you know a better time to get set free from pain and guilt
Do you know a better time than right now
Now is the time to believe Him
Now is the time to receive Him
Today is the day of Salvation
There'll never be a better time than now
Now is the time to accept Him
Now is the time do not reject Him
This is the day, the hour, the minute
There will never be a better time than now, Amen!

The Pledge of Allegiance was led by President Masterson.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Assessment and Taxation: **HB 2828**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Dietrich, Kloos and O'Shea introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1751—

A RESOLUTION recognizing Success Learning Inclusion for its dedication to supporting individuals with intellectual and developmental disabilities and commending the Success Learning Inclusion President and CEO, Lisa Jackson, for her commitment to those with developmental disabilities in the Topeka and Shawnee county area.

WHEREAS, We recognize the month of March as Developmental Disabilities Awareness month in order to celebrate people with intellectual and developmental disabilities and recognize the importance of cultivating inclusive environments with equal access to communication, education, meaningful employment, housing, transportation and public accommodations for all Kansans; and

WHEREAS, Since 1971, Success Learning Inclusion (SLI) has advocated for the rights and futures of individuals with intellectual disabilities; and

WHEREAS, SLI has positively impacted the city of Topeka and the Shawnee county area by promoting equal opportunity, access and choice for Kansans with developmental disabilities; and

WHEREAS, Since 2004, Lisa Jackson has served as the President and CEO of SLI. With over 35 years of experience in the field of developmental disabilities, Lisa has dedicated 21 of those years to SLI; and

WHEREAS, Kansas recognizes the unlimited potential for all its citizens, including those with developmental disabilities, to live, work and thrive in communities throughout the state; and

WHEREAS, SLI believes that every individual deserves a high quality of life and a path that provides them with opportunities today and hope for tomorrow: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the positive impact that Success Learning Inclusion has on individuals with disabilities and believe there is no greater time to celebrate its contributions to the community than during Developmental Disabilities Awareness month; and

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

On emergency motion of Senator Dietrich **SR 1751** was adopted by voice vote.

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

SENATE RESOLUTION No. 1752—

A RESOLUTION congratulating SevenDays on its 10th anniversary of teaching kindness and making a ripple to change the world.

WHEREAS, We overcome hate by promoting kindness and understanding through education and dialogue; and

WHEREAS, SevenDays is an organization that provides opportunities to encourage all people to participate in activities that promote the practice of kindness; and

WHEREAS, SevenDays celebrates its 10th anniversary beginning on April 10, 2024, with the Kindness Breakfast, a celebration of youth and an announcement of the 4th annual "Ripple of Kindness Award" recipient, as well as its new Community Kindness Festival on Sunday, April 14, 2024; and

WHEREAS, SevenDays continues its daily themes of "Love, Discover, Others,

Connect, You, Go and Onward," as it brings people from all walks of life together to overcome hate with acts of kindness; and

WHEREAS, The memories of three wonderful and unique people, Reat Underwood, Dr. William Corporon and Terri LaManno, whose lives were tragically taken during a shooting at the Jewish Community Center of Greater Kansas City and Village Shalom in Overland Park, Kansas, on April 13, 2014, will be honored through kindness and understanding; and

WHEREAS, SevenDays expands its acts of compassion, acceptance and understanding to those who gather to celebrate; and

WHEREAS, We fully support and encourage all in Kansas, including residents, businesses, organizations and visitors, to come together during the SevenDays event, to act more kindly and be more understanding of differences, thereby making the world a better place, one ripple at a time: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate SevenDays on its 10th anniversary of teaching kindness and making a ripple to change the world; and

Be it further resolved: That we encourage all Kansans to engage in acts of kindness throughout the week and remember the events of April 13, 2014, not only for the losses of that day, but also for the significance of the powerful and enduring vow to overcome hate with kindness; and

Be it further resolved: That the Secretary of the Senate shall send three enrolled copies of this resolution to SevenDays and one copy to Senator Sykes.

On emergency motion of Senator Sykes **SR 1752** was adopted by voice vote.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **SB 142**.

The House adopts the Conference Committee report to agree to disagree on **H Sub SB 387**, and has appointed Representatives Williams, K., Goetz and Winn as Second conferees on the part of the House.

The House adopts the Conference Committee report on **S Sub HB 2124**.

The House adopts the Conference Committee report on **HB 2498**.

The House adopts the Conference Committee report on **SB 455**.

The House announced the appointment of Representatives Smith, A., Bergkamp and Sawyer as conferees on **SB 410**.

The House announced the appointment of Representatives Smith, A., Bergkamp and Sawyer as conferees on **HB 2096**.

The House announced the appointment of Representatives Smith, A., Bergkamp and Sawyer as conferees on **HB 2098**.

The House adopts the Conference Committee report to agree to disagree on **HB 2618**, and has appointed Representatives Proctor, Waggoner and Woodard as Second conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 142** and has appointed Representatives Francis, Neely and Ballard as Second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 142** 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 2, following line 34, by inserting:

"Sec. 3. K.S.A. 8-1530 is hereby amended to read as follows: 8-1530. (a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of K.S.A. 8-1738(d), and amendments thereto, and visual signals meeting the requirements of K.S.A. 8-1720, and amendments thereto, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall do the following unless otherwise directed by a police officer:

- (1) Yield the right-of-way;
- (2) immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection; and
- (3) stop and remain in such position until the authorized emergency vehicle has passed.

(b) The driver of a motor vehicle upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is making use of visual signals meeting the requirements of K.S.A. 8-1720 or 8-1722(d), and amendments thereto, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized emergency vehicle; or

(2) if the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.

(c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(d) (1) Violation of subsection (b) that results in injury or great bodily harm to any person serving as a law enforcement officer, an emergency medical service provider or a firefighter and such vehicle is an authorized emergency vehicle that is a fire department vehicle, police bicycle, police vehicle or an ambulance is a severity level 6, person felony.

(2) Violation of subsection (b) that results in death to any person serving as a law enforcement officer, an emergency medical service provider or a firefighter and such vehicle is an authorized emergency vehicle that is a fire department vehicle, police bicycle, police vehicle or an ambulance is a severity level 5, person felony.

(3) In addition to the penalty described in paragraph (1), the court shall impose a fine of not less than \$1,000.

(4) In addition to the penalty described in paragraph (2), the court shall impose a fine of not less than \$7,500.";

On page 12, in line 21, after "K.S.A." by inserting "8-1530 and"; also in line 21, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "creating a crime for injuring or causing the death of certain authorized emergency vehicle operators when unlawfully passing a stationary authorized emergency vehicle"; in line 5, after "K.S.A." by inserting "8-1530 and"; in line 6, by striking "section" and inserting "sections";

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

SHANNON FRANCIS

LANCE NEELLY

BARBARA BALLARD

Conferees on part of House

MIKE PETERSON

RICK KLOOS

ETHAN CORSON

Conferees on part of Senate

On motion of Senator Kloos the Senate not adopted the conference committee report on **SB 142** and requested a new conference be appointed.

The President appointed Senators Petersen, Kloos and Corson as second conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 387** submits the following report:

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

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

KRISTEY WILLIAMS

JASON GOETZ

Conferees on part of House

MOLLY BAUMGARDNER

RENEE ERICKSON

Conferees on part of Senate

On motion of Senator Baumgardner the Senate adopted the conference committee report on **H Sub SB 387**, and requested a new conference be appointed.

The President appointed Senators Baumgardner, Erickson and Sykes as a second Conference Committee on the part of the Senate on **H Sub SB 387**.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2124** 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. 2124, as follows:

On page 1, following line 11, by inserting:

"New Section 1. (a) The secretary of revenue shall conduct a study on licensed microbrewery compliance with state laws and rules and regulations governing the collection and remittance of alcoholic liquor enforcement taxes. On or before January 15, 2025, the secretary shall prepare and submit a report to the governor and the legislature on the findings of such study, including any recommendations regarding such collection and remittance, the monitoring thereof and ensuring compliance with applicable laws and rules and regulations.

(b) The director of alcoholic beverage control shall conduct a study on licensed microbrewery compliance with state laws and rules and regulations governing the collection and remittance of alcoholic liquor gallonage taxes. On or before January 15, 2025, the director shall prepare and submit a report to the governor and the legislature on the findings of such study, including any recommendations regarding such collection and remittance, the monitoring thereof and ensuring compliance with applicable laws and rules and regulations.

(c) This section shall expire on July 1, 2025.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, after the second semicolon by inserting "directing the secretary of revenue to study the collection and remittance of alcoholic liquor enforcement tax by microbreweries; directing the director of alcoholic beverage control to study the collection and remittance of alcoholic liquor gallonage tax by microbreweries;"

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

MICHAEL THOMPSON

RICK KLOOS

OLETHA FAUST GOUDEAU

Conferees on part of Senate

WILL CARPENTER

TOM KESSLER

JOELLA HOYE

Conferees on part of House

Senator Thompson moved the Senate adopt the Conference Committee Report on **S Sub HB 2124**.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Petersen, Pettey, Pittman, Pyle, Reddi, Shallenburger, Steffen, Straub, Sykes, Thompson, Ware, Warren, Wilborn.

Nays: Peck, Tyson.

Absent or Not Voting: Ryckman.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2465** submits the following report:

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

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

CARYN TYSON

VIRGIL PECK

Conferees on part of Senate

ADAM SMITH

BRIAN BERGKAMP

Conferees on part of House

On motion of Senator Tyson the Senate adopted the conference committee report on **HB 2465**, and requested a new conference be appointed.

The President appointed Senators Tyson, Peck and Holland as a second Conference Committee on the part of the Senate on **HB 2465**.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2481** submits the following report:

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

On page 1, following line 29, by inserting:

"New Sec. 4. The portion of United States highway 69 from the junction of United States highway 69 and grand road in Bourbon county, then south on United States highway 69 to the junction of United States highway 69 and east 650th avenue in Crawford county is hereby designated as the Ken W Brock memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate that the highway is the Ken W Brock memorial highway.

New Sec. 5. The portion of United States highway 81 where it enters the state on the Kansas-Nebraska line, then south on United States highway 81 to the southern border of Republic county is hereby designated as the Merle Miller memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate that the highway is the Merle Miller memorial highway.

New Sec. 6. The portion of United States highway 281 from the southern city limits of Russell, then north to its junction with K-18 highway in Russell county is hereby designated as the first responders memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate that the highway is the first responders memorial highway.

New Sec. 7. The Atchison, Topeka and Santa Fe #3415 Pacific class 4-6-2, built in 1919, is hereby designated as the official steam locomotive of the state of Kansas.

New Sec. 8. The Abilene & Smoky Valley Railroad is hereby designated as the official heritage railroad of the state of Kansas.

Sec. 9. K.S.A. 68-1011 is hereby amended to read as follows: 68-1011. The portion of United States highway ~~no~~ 281 traversing this state where it crosses the Nebraska-Kansas boundary line on the north to the junction of United States highway 281 and K-18 highway, then from the southern city limits of Russell to the point where it leaves the state on the south at the Kansas-Oklahoma boundary line, be and it is hereby designated as "the American Legion memorial highway" in the state of Kansas.

Sec. 10. K.S.A. 68-1036 is hereby amended to read as follows: 68-1036. The portion of United States highway 81 ~~where it enters the state on the Kansas-Nebraska line on the north thence south from the northern border of Cloud county, then south on United States highway 81~~ to the junction of interstate highway I-70 is hereby designated the Frank Carlson memorial highway. The secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate the highway is the Frank Carlson memorial highway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs.";

On page 2, in line 6, after "K.S.A." by inserting "68-1011, 68-1036 and"; also in line 6, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "roads and highways" and inserting "transportation; relating to commemorative designations"; in line 5, after the semicolon by inserting "designating a portion of United States highway 69 as the Ken W Brock memorial highway; designating a portion of United States highway 81 as the Merle Miller memorial highway; designating a portion of United States highway 281 as the first responders memorial highway; redesignating a current portion of the American Legion memorial highway for United States highway 281; redesignating a current portion of the Frank Carlson memorial highway for United States highway 81; designating the Atchison, Topeka and Santa Fe #3415 as the official state steam locomotive and the Abilene & Smoky Valley Railroad as the official state heritage railroad."; also in line 5, after "K.S.A." by inserting "68-1011, 68-1036 and"; in line 6, by striking "section" and inserting "sections";

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

MIKE PETERSON

RICK KLOOS

ETHAN CORSON

Conferees on part of Senate

SHANNON FRANCIS

LANCE NEELLY

BARBARA BALLARD

Conferees on part of House

Senator Petersen moved the Senate adopt the Conference Committee Report on **HB 2481**.

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

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll,

Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Ryckman.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2498** submits the following report:

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

On page 1, by striking all in lines 7 through 35;

By striking all on page 2;

On page 3, by striking all in lines 1 through 10; following line 10, by inserting:

"Section 1. K.S.A. 2023 Supp. 75-5061 is hereby amended to read as follows: 75-5061. (a) The secretary of transportation is hereby authorized and empowered to: (1) Solicit and receive moneys from any public or private sources; and (2) establish and administer a grant program for public use general aviation airports for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of such public use general aviation airports.

(b) Such grants shall be made upon such terms and conditions as the secretary deems appropriate, and such grants shall be made from funds credited to the public use general aviation airport development fund.

(c) The public use general aviation airport development fund is hereby established in the state treasury which shall be for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of public use general aviation airports pursuant to subsection (a) of this section. All moneys received pursuant to subsection (a) shall be remitted to the state treasurer at least monthly and deposited in the state treasury to the credit of the public use general aviation airport development fund. The secretary shall administer the public use general aviation airport development fund. All expenditures from the public use general aviation airport development fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

~~(d) (1) On July 1, 1999, and each July 1 thereafter through July 1, 2012, the director of accounts and reports shall transfer \$3,000,000 from the state highway fund to the public use general aviation airport development fund.~~

~~(2) On July 1, 2013 2024, and each July 1 thereafter, the director of accounts and reports shall transfer \$5,000,000 \$15,000,000 from the state highway fund to the public use general aviation airport development fund. The secretary is hereby authorized to transfer additional moneys to the public use general aviation airport development fund from the state highway fund, and moneys from the public use general aviation airport development fund to the state highway fund. In no event shall the amount remaining in the public use general aviation airport development fund and the amount spent or dedicated for grants in each fiscal year be less than \$5,000,000 \$15,000,000.~~

(e) As used in this section, "public use general aviation airport" means any airport available for use by the general public for the landing and taking off of aircraft, but shall not include any airport classified as a primary airport by the federal aviation administration.

(f) The secretary may adopt rules and regulations for the purpose of implementing the provisions of this section.

Sec. 2. K.S.A. 2023 Supp. 75-5061 is hereby repealed.";

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 and 3; in line 4, by striking all before the period and inserting "public use general aviation airports; increasing the transfer from the state highway fund to the public use general aviation airport development fund; amending K.S.A. 2023 Supp. 75-5061 and repealing the existing section";

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

MIKE PETERSON

RICK KLOOS

ETHAN CORSON

Conferees on part of Senate

SHANNON FRANCIS

LANCE NEELLY

BARBARA BALLARD

Conferees on part of House

Senator Petersen moved the Senate adopt the Conference Committee Report on **HB 2498**.

On roll call, the vote was: Yeas 34; Nays 5; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Peck, Petersen, Pettey, Pittman, Reddi, Shallenburger, Sykes, Thompson, Ware, Warren, Wilborn.

Nays: Olson, Pyle, Steffen, Straub, Tyson.

Absent or Not Voting: Ryckman.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2527** submits the following report:

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

On page 11, in line 39, after "(4)" by inserting "For requests by a public utility for a determination of ratemaking principles and treatment relating to the abandonment or retirement of a nuclear powered or fossil fuel-fired electric generating unit, the commission shall not approve the abandonment or retirement of such electric generating unit, authorize a surcharge or issuance of bonds for the decommissioning of such electric generating unit or take any other action that authorizes or allows for the

recovery of costs for the retirement of such electric generating unit, including stranded asset recovery, unless:

(A) The utility demonstrates that the public utility will be able to meet current and reasonably-anticipated future resource adequacy requirements of the regional transmission organization or independent system operator; and

(B) the abandonment or retirement is not expected to harm the utility's customers or decrease the utility's regional rate competitiveness by causing the utility to experience higher costs than would be expected by continuing to operate such electric generating unit in compliance with applicable law, unless, consistent with the integrated resource planning framework utilized by the commission, the commission determines that such higher costs are justified by other factors that are specified by the commission. The utility shall provide the commission with evidence of all known direct and indirect costs of abandonment or retirement of the electric generating unit and demonstrate that cost savings or avoided or mitigated cost increases to customers will occur as a result of the abandonment or retirement of the electric generating unit.

(5)";

On page 12, in line 3, by striking "(5)" and inserting "(6)";

On page 13, in line 26, by striking "(6)" and inserting "(7)"; in line 31, by striking "(7)" and inserting "(8)";

On page 15, following line 2, by inserting:

"(h) For nuclear powered and coal-fired electric generating facilities, if determined by the commission to be just, reasonable and necessary for the provision of sufficient and efficient service, an electric public utility shall be permitted to:

- (1) Retain such facilities in such utility's rate base;
- (2) recover expenses associated with the operation of such facilities that remain in service to provide greater certainty that generating capacity will be available to provide essential service to customers, including during extreme weather events; and
- (3) recover any portion of such utility's rate base and prudently incurred expenses necessary for such facilities:

(A) To operate at a low-capacity factor; or

(B) that are offline during normal operating conditions and providing capacity only.

(i) The commission shall prepare and submit to the legislature by December 1 of each year an annual report based on the preceding calendar year that provides:

(1) The number of requests by utilities to retire electric generating units in the state, the nameplate capacity of each of those units and whether the request was approved or denied by the commission;

(2) the impact of any commission-approved retirement of an electric generating unit on the:

(A) Utility's and state's generation capacity by fuel type;

(B) required capacity reserve margins for the utility and the overall capacity reserve margin within the state;

(C) utility's need for capacity additions or expansions at new or existing facilities as a result of the retirement; and

(D) utility's need for additional power or capacity reserve arrangements; and

(3) whether the retirement resulted in stranded costs for ratepayers that will be recovered by the utility through securitization or some other charge on customer bills.

(j) The provisions of subsection (c)(4) shall expire on July 1, 2034.

Sec. 5. K.S.A. 66-1264 is hereby amended to read as follows: 66-1264. As used in the net metering and easy connection act:

(a) "Commission" means the state corporation commission.
 (b) "Customer-generator" means the owner or operator of a net metered facility ~~which that:~~

(1) Is powered by a renewable energy resource;
 (2) is located on a premises owned, operated, leased or otherwise controlled by the customer-generator;

(3) is interconnected and operates in parallel phase and synchronization with an affected utility and is in compliance with the standards established by the affected utility;

(4) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements such that the customer-generator will fully consume the energy output or will deliver the remaining energy output and all other services to the utility; and

(5) ~~contains a~~ an underwriter laboratories listed mechanism, approved by the utility, that automatically disables the unit and interrupts the flow of electricity back onto the ~~supplier's utility's~~ electricity lines in the event that service to the customer-generator is interrupted.

(c) "Export" means power that flows from a customer-generator's electrical system through a customer's billing meter and onto the utility's electricity lines.

(d) "Generating capacity" means the maximum amount of alternating current power that a customer generator's net metered system can produce.

(e) ~~"Peak demand" shall have the meaning ascribed thereto~~ means the same as defined in K.S.A. 66-1257, and amendments thereto.

(f) "Permission to operate" means the operational date of the customer-generator's net metered facility.

~~(d)(g) "Renewable energy resources" shall have the meaning ascribed thereto means the same as defined~~ in K.S.A. 66-1257, and amendments thereto.

(h) "Supplied" means power that flows from the utility's electricity lines through a customer's billing meter and into a customer-generator's electrical system.

~~(e)(i)~~ (i) "Utility" means investor-owned electric utility.

(j) "Witness test" means a representative of the utility is on-site to measure or verify a specific setting or operational condition.

Sec. 6. K.S.A. 66-1265 is hereby amended to read as follows: 66-1265. Each utility shall:

(a) (1) Except as provided in paragraph (2), make net metering available to customer-generators who are in good standing with the utility on a first-come, first-served basis, until the total rated generating capacity as approved by the utility of all net metered systems equals or exceeds one:

(A) Commencing July 1, 2024, percent 2% of the utility's peak demand during the previous year;

(B) commencing July 1, 2025, 3% of the utility's peak demand during the previous year;

(C) commencing July 1, 2026, 4% of the utility's peak demand during the previous year; and

(D) commencing July 1, 2027, and each year thereafter, 5% of the utility's historic

highest annual peak demand since 2014.

(2) The commission may increase the total rated generating capacity of all net metered systems to an amount above ~~one percent~~ 5% after conducting a hearing pursuant to K.S.A. 66-101d, and amendments thereto;

(b) provide an appropriate class bidirectional meter to the customer-generator at no charge, but may charge the customer-generator for the cost of any additional metering or distribution equipment necessary to accommodate the customer-generator's facility;

(c) disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the utility;

(d) for any customer-generator ~~which that~~ began operating its renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014, offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(e) for any customer-generator ~~which that~~ began operating its renewable energy resource under an interconnect agreement with the utility on or after July 1, 2014, have the option to propose, within an appropriate rate proceeding, the application of time-of-use rates, minimum bills, incentive programs or other rate structures that would apply to all such customer-generators prospectively.

Sec. 7. K.S.A. 66-1266 is hereby amended to read as follows: 66-1266. (a) Prior to January 1, 2030, for any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated-exported~~ by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility in accordance with normal practices for customers in the same rate class.

(2) If such customer-generator ~~generates~~ exports electricity in excess of the ~~customer-generator's monthly consumption~~ electricity supplied by the utility, all such net excess ~~energy (NEG) generation~~, expressed in kilowatt-hours, shall be carried forward from month-to-month and credited at a ratio of one-to-one against the ~~customer-generator's energy consumption~~ electricity supplied by the utility, expressed in kilowatt-hours, in subsequent months.

(3) Any interconnect agreement between such customer-generator and a utility and all such ~~NEG generated net excess generation exported~~ under such agreement shall be ~~transferable~~ transferable and continue in place until January 1, 2030, regardless of whether there is a change in ownership of the property ~~on which where~~ the renewable energy resource is located.

(4) Any ~~NEG resulting net excess generation exported~~ from renewable energy resources that are installed on and after July 1, 2014, but are part of an installation of a renewable energy resource that was operating prior to July 1, 2014, shall be carried forward and credited to the customer as if such resources had begun operation prior to July 1, 2014.

(5) Any net excess generation credit remaining in a net-metering customer's

account on March 31 of each year shall expire.

(b) For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2014:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated-exported~~ by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility.

(2) If such customer-generator ~~generates exports~~ electricity in excess of the ~~customer-generator's monthly consumption electricity supplied by the utility~~, all such NEG net excess generation remaining in such customer-generator's account at the end of each billing period shall be credited to the customer at a rate of at least 100% of the utility's monthly system average cost of energy per kilowatt hour.

(c) Except as otherwise provided in subsection (d), on and after January 1, 2030, for all customer-generators, regardless of when such customer-generators entered into an interconnect agreement with the utility:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated-exported~~ by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility; and

(2) if such customer-generator ~~generates exports~~ electricity in excess of the ~~customer-generator's monthly consumption electricity supplied by the utility~~, all such NEG net excess generation remaining in a customer-generator's account at the end of each billing period shall be credited to the customer at a rate of at least 100% of the utility's monthly system average cost of energy per kilowatt hour.

(d) For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2024, and receives service on an optional time-varying rate:

(1) The utility shall measure the net electrical energy exported or supplied during the billing period for each of the time of use periods established by the applicable time-varying rate schedule that applies to the customer-generator's rate class in accordance with normal metering practices for customers that take service on time-varying rates in that same rate class;

(2) electricity supplied by the utility shall be netted against the electricity exported by the customer-generator during each applicable time of use period;

(3) if the electricity supplied by the utility exceeds the electricity exported by the customer-generator during any time of use period, the customer-generator shall be billed for the net electricity supplied by the utility in each such time of use period as well as all other charges as such charges are applied to non-customer-generators in the same rate class; and

(4) if the electricity exported by the customer-generator exceeds the electricity supplied by the utility during any time of use period, the customer-generator shall be credited at a rate of at least 100% of the utility's monthly system average cost of energy per kilowatt hour, with any net credit, and net of all other charges as such charges are applied to non-customer-generators in the same rate class, applied to the next billing period.

Sec. 8. K.S.A. 66-1267 is hereby amended to read as follows: 66-1267. (a) For customer-generators that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:

(1) Such utility shall allow:

(A) Residential customer-generators to ~~generate export~~ electricity subject to net metering up to 25 kilowatts; and

(B) commercial, industrial, school, local government, state government, federal government, agricultural and institutional customer-generators to ~~generate export~~ electricity subject to net metering up to 200 kilowatts.

(2) Nothing in this act shall be construed to prevent such customer-generators from installing additional renewable energy resources after July 1, 2014, that will generate electricity pursuant to the restrictions contained in paragraph (1).

(b) For customer-generators that begin operating a renewable energy resource under an interconnect agreement with the utility after July 1, 2014, such utility shall allow:

~~(1) All residential customer-generators to generate electricity subject to net metering up to 15 kilowatts;~~

~~(2) commercial, industrial, religious institution, local government, state government, federal government, agricultural and industrial customer-generators to generate electricity subject to net metering up to 100 kilowatts, unless otherwise agreed to by the utility and the customer-generator; and~~

~~(3) school customer-generators to generate electricity subject to net metering up to 150 kilowatts. For the purpose of this section, "school" means any postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto, or any public or private school which provides instruction for students enrolled in grade kindergarten or grades one through 12 customer-generators to export electricity subject to net metering up to 150 kilowatts alternating current.~~

(c) Customer-generators shall appropriately size their ~~generation export capacity~~ to their expected load as follows:

(1) (A) (i) Divide the customer-generator's historic consumption in kilowatt-hours for the previous 12-month period by 8,760; and

(ii) divide the quotient calculated pursuant to paragraph (1)(A)(i) by a capacity factor of 0.144; or

(B) if the customer-generator does not have historic consumption data that adequately reflects the customer's consumption at such premises, the customer-generator's historic consumption for the previous 12-month period shall be 7.15 kilowatt-hours per square foot of conditioned space; and

(2) round up the quotient calculated pursuant to paragraph (1)(A)(i) or the amount determined pursuant to paragraph (1)(B) to the nearest standard size as follows:

(A) Between two kilowatts alternating current power and 20 kilowatts alternating current power, round up to the nearest two kilowatts alternating current power increment; and

(B) between 20 kilowatts alternating current power and 150 kilowatts alternating current power, round up to the nearest five kilowatts alternating current power increment.

(d) For customer-generators that operate a renewable energy resource under an interconnect agreement with the affected utility on or after January 1, 2026:

(1) The generating capacity of a customer-generator's renewable energy resource as approved by the affected utility shall not exceed export capacity by more than 50%; and

(2) energy storage capacity, including electric vehicles or other portable energy storage devices, shall not be included in any sizing formulas unless the energy storage

device has the ability to add export capacity and is not part of an export limited system.

(e) For customer-generators that operate a generation resource designed to export an amount of power that differs from the system's generating capacity:

(1) The customer-generator shall own and maintain any necessary export limiting device;

(2) protections shall be in place to restrict the export limiting device settings to qualified persons;

(3) the utility shall have the option to require a witness test of the export limiting device's function or set points prior to granting permission to operate;

(4) the export capacity of the system shall not be increased without prior approval from the utility;

(5) the customer-generator shall allow the utility to perform periodic witness testing of the export limiting device's function or settings upon request;

(6) if the export limiting device's settings are incorrect or if the device fails to limit the export of power below the designed export capacity for more than 15 minutes in any single event, the customer-generator shall cease operation of the system until repair or reprogramming of the limiting device is completed; and

(7) the utility shall not restrict the brand or model of the limiting device if the device is approved by the generator's manufacturer or is underwriter laboratories listed to perform such operations in conjunction with the customer-generator's system.";

Also on page 15, in line 3, before "K.S.A." by inserting "K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 19, after the semicolon by inserting "prohibiting the commission from authorizing the retirement of nuclear powered and fossil fuel-fired electric generating units unless certain requirements are met; authorizing electric public utilities to retain certain electric generating facilities in the utility's rate base; requiring the commission to report annually on public utility requests to retire electric generating units;"; in line 26, after the semicolon by inserting "revising the net metering and easy connection act; increasing the public utility system-wide capacity limit for facilities subject to net metering; requiring net metering facilities to be appropriately sized based on the customer's expected load; establishing requirements for exporting power from a net metering facility to a utility;"; in line 27, after "amending" by inserting "K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and";

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

MICHAEL FAGG

MIKE PETERSEN

MARCI FRANCISCO

Conferees on part of Senate

LEO DELPERDANG

CARL TURNER

KC OHAEBOSIM

Conferees on part of House

Senator Fagg moved the Senate adopt the Conference Committee Report on **HB 2527**.

On roll call, the vote was: Yeas 33; Nays 2; Present and Passing 4; Absent or Not Voting 1.

Yeas: Alley, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Shallenburger, Straub, Sykes, Thompson, Ware, Warren, Wilborn.

Nays: Steffen, Tyson.

Present and Passing: Baumgardner, Billinger, Blasi, Haley.

Absent or Not Voting: Ryckman.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2588** submits the following report:

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

On page 1, by striking all in lines 10 through 35;

By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 7; following line 7 by inserting:

"Section 1. (a) The Kansas legislature finds and declares that:

(1) The permitting, construction, modification, maintenance and operation of telecommunications facilities are critical to ensuring that all citizens in the state have true access to broadband and other advanced technology and information;

(2) telecommunications facilities are critical to ensuring that businesses and schools throughout the state remain competitive in the global economy;

(3) telecommunications facilities that enable broadband services have a significant economic benefit; and

(4) the permitting, construction, modification, maintenance and operation of telecommunications facilities, to the extent specified in this section, are declared to be matters of statewide concern and interest.

(b) As used in this section:

(1) "Public right-of-way" means only the area of real property in which a county has a dedicated or acquired right-of-way interest in the real property. "Public right-of-way" includes the area on, below or above the present and future streets, roads, highways, parkways or boulevards dedicated or acquired as right-of-way by a county. "Public right-of-way" does not include:

(A) The airwaves above a "public right-of-way" with respect to wireless telecommunications or other non-wire telecommunications or broadcast services;

(B) easements obtained by utilities or private easements; or

(C) any real property, structures or facilities under the ownership, control or jurisdiction of the secretary of transportation.

(2) "Provider" means a local exchange carrier or telecommunications carrier as such terms are defined in K.S.A. 66-1,187 and amendments thereto, or a video service provider as defined in K.S.A. 12-2022, and amendments thereto. "Provider" does not include an applicant as defined in K.S.A. 66-2019, and amendments thereto.

(c) Without abrogating any rights held by a video service provider pursuant to a

state-issued video service authorization, any provider shall have the right pursuant to this section to construct, maintain and operate poles, conduit, cable, switches and related appurtenances and facilities along, across, upon and under any public right-of-way in this state. Such poles, conduit, cable, switches and related appurtenances and facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or the legal use by other utilities or providers.

(d) A county shall impose any and all public right-of-way access and permit processes in a nondiscriminatory and competitively neutral manner to all similarly situated providers, including, but not limited to:

- (1) The permit fees charged by the county;
- (2) the forms and filings required by the county for a permit application;
- (3) the time with which a county may approve or deny a permit; and
- (4) options for waivers regarding such permit fees, forms and filings.

(e) No county shall create, enact or erect any discriminatory, unreasonable condition, requirement or barrier for entry into or use of the public right-of-way by a provider.

(f) A county may only assess the following non-discriminatory and competitively neutral fees against a provider, for the administration and orderly use of the public right-of-way, provided that such fees reimburse the county for the county's reasonable, actual and verifiable costs of managing the public right-of-way:

(1) A construction permit fee charged in connection with issuing a construction permit to set fixtures in the public right-of-way that compensates the county for the reasonable administrative expenses incurred by the county for issuing, processing and verifying the permit application;

(2) an excavation permit fee for each pavement cut to recover the direct and reasonable costs associated with construction and repair activity of the provider. Any excavation permit fee imposed by the county shall be based upon a regional specific or other appropriate study establishing the basis for such costs that takes into account the life of the county road or highway prior to the construction or repair activity and the remaining life of the road or highway. Such excavation permit fee shall be expressly limited to the proportion of the cost attributable to the activity of the provider that results in an actual pavement cut; and

(3) inspection fees to recover all reasonable costs associated with a county's inspection of the work of the provider in the right-of-way.

(g) A county shall authorize any video service provider as defined in K.S.A. 12-2022, and amendments thereto, to offset any fees and charges imposed pursuant to this section against payment of any video service provider fee imposed pursuant to K.S.A. 12-2024, and amendments thereto.

(h) A county may assess against a provider costs associated with repairing and restoring the public right-of-way because of damage caused by the provider, its assigns, contractors or subcontractors, or both, in the public right-of-way. A county may require a provider to furnish a performance bond, in a form acceptable to the county, from a surety licensed to conduct surety business in the state of Kansas, to ensure appropriate and timely performance in the construction and maintenance of facilities located in the public right-of-way.

(i) A county may not assess any additional fees or costs against providers for use or

occupancy of the public right-of-way other than those specified in this section. Any fees or costs imposed pursuant to this section shall be imposed upon all such providers in a nondiscriminatory and competitively neutral manner.

(j) Upon request by a provider, a county shall, in a timely manner, provide an accounting for the reasonable, actual and verifiable costs that are the basis for any fee permitted in subsection (f).

(k) This section may not be construed to affect any valid taxation of a provider's facilities or services.

(l) Any ordinance enacted prior to the effective date of this act governing the use and occupancy of the public right-of-way by a provider shall not conflict with the provisions of this section.

(m) No provider shall enter into a contract or any other agreement with a county to sell or provide a product or service that the provider's business does not actually sell or provide.

(n) Any county or provider may bring an action in a court of competent jurisdiction to enforce the provisions of this act.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 through 6; in line 7, by striking all before the period and inserting "counties; relating to the public right-of-way; authorizing telecommunication, broadband and video service providers to operate in county public right-of-way; limiting the fees and costs that a county may impose upon such providers for such activities";

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

MICHAEL FAGG

MIKE PETERSEN

MARCI FRANCISCO

Conferees on part of Senate

LEO DELPERDANG

CARL TURNER

KC OHAEBOSIM

Conferees on part of House

Senator Fagg moved the Senate adopt the Conference Committee Report on **HB 2588**.

On roll call, the vote was: Yeas 26; Nays 7; Present and Passing 6; Absent or Not Voting 1.

Yeas: Alley, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Shallenburger, Sykes, Ware, Warren, Wilborn.

Nays: Baumgardner, Pittman, Pyle, Steffen, Straub, Thompson, Tyson.

Present and Passing: Francisco, Gossage, Haley, Holland, Holscher, Reddi.

Absent or Not Voting: Ryckman.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2618** submits the following report:

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

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

MICHAEL THOMPSON
RICK KLOOS
OLETHA FAUST GOUDEAU
Conferees on part of Senate
PAT PROCTOR
PAUL WAGGONER
BRANDON WOODARD
Conferees on part of House

On motion of Senator Thompson the Senate adopted the conference committee report on **HB 2618**, and requested a new conference be appointed.

The President appointed Senators Thompson, Kloos and Faust-Goudeau as a second Conference Committee on the part of the Senate on **HB 2618**.

CHANGE OF CONFERENCE

Senators Tyson, Peck, and Holland are appointed to replace Senators Petersen, Kloos, and Corson as members of the conference committee on **SB 410**.

Senators Tyson, Peck, and Holland are appointed to replace Senators Longbine, Fagg, and Holscher as members of the conference committee on **HB 2096**.

Senators Tyson, Peck, and Holland are appointed to replace Senators Longbine, Fagg, and Holscher as members of the conference committee on **HB 2098**.

On motion of Senator Alley, the Senate adjourned until 10:00 a.m., Thursday, April 4, 2024.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

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