Journal of the House

FIFTY-FOURTH DAY

Hall of the House of Representatives,
Topeka, KS, Friday, April 5, 2013, 10:00 a.m.

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

The roll was called with 121 members present.
Reps. Osterman and Tietze were excused on verified illness.
Reps. Finch and Sawyer were excused on excused absence by the Speaker.
Rep. Thimesch was excused for a portion of the day on excused absence by the Speaker.
Present later: Rep. Thimesch.

Prayer by guest chaplain, the Rev. David C. Fulton, pastor, St. Paul's Lutheran Church, Wichita, and guest of Rep. Dillmore:

> The world is charged with the grandeur of God, Good and Gracious God, this moment is charged with your grandeur as we gather for prayer – calm our minds, open our hearts as we gather in your Presence.. the Psalmist sings out your truth in Psalm 112…
>
> *5 It is well with those who deal generously.. who conduct their affairs with justice.*
>
> *6 For the righteous will never be moved; they will be remembered for ever.*
>
> *7 They are not afraid of evil tidings; their hearts are firm, secure in the Lord.*
>
> *8 Their hearts are steady, they will not be afraid; in the end they will look in triumph on their foes. 9 They have distributed freely, they have given to the poor; their righteousness endures for ever; their horn is exalted in honor.*
>
> O God, in your perspective, all are your children, all are precious to you, all deserve justice and well-being. As we gather in this space, there is work to be done, it is the work of the people, it is the work for the people, it is the work of justice. As the Kansas farmer finishes the day, takes off his gloves, puts and hands on his hips and looks out with gratitude on the land, so, all who gather here finish their days work with gratitude to thee. Hands on hips, they look over the work that has been accomplished. All here know gracious One, all here

know that at the end of the day, it's not about winning and losing, it's not about the governor, nor the conservatives, nor the moderates, nor the democrats, it's about the people, all the people, about the old, the vulnerable, the wealthy and the poor, it's about the children, the children, the children. At the end of the day, it's about doing justice, loving kindness and walking humbly with thee. Holy One, bless this day, bless the hearts of all who labor in this field of justice. We thank and praise you for Kansas, for the gift of our mid-western hard working and common sense heritage. We are Kansans, we are Shockers! This moment is charged with your grandeur O God, and all God's people say AMEN!

The Pledge of Allegiance was led by Rep. Bollier.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2412**.
Taxation: **SB 181, SB 231**.

MESSAGE FROM THE SENATE

The Senate adopts the Conference Committee report on **Sub HB 2017**.
The Senate adopts the Conference Committee report on **HB 2025**.
The Senate adopts the Conference Committee report on **S Sub for HB 2034**.
The Senate adopts the Conference Committee report on **HB 2081**.
The Senate adopts the Conference Committee report on **S Sub for HB 2093**.
The Senate adopts the Conference Committee report on **HB 2115**.
The Senate adopts the Conference Committee report on **HB 2120**.
The Senate adopts the Conference Committee report on **HB 2201**.
The Senate adopts the Conference Committee report on **HB 2218**.

The Senate adopts the Conference Committee report to agree to disagree on **SB 23**, and has appointed Senators Abrams, Arpke and Hensley as second conferees on the part of the Senate.

The Senate adopts the Conference Committee report to agree to disagree on **SB 102**, and has appointed Senators Ostmeyer, Emler and Faust-Goudeau as second conferees on the part of the Senate.

The Senate adopts the Conference Committee report to agree to disagree on **SB 124**, and has appointed Senators King, Smith and Haley as second conferees on the part of the Senate.

The Senate adopts the Conference Committee report to agree to disagree on **HB 2234**, and has appointed Senators Masterson, Denning and Kelly as second conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 129** 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 7 through 34;

By striking all on pages 2 through 24 and inserting the following:

"Section 1. K.S.A. 16-207 is hereby amended to read as follows: 16-207. (a) Subject to the following provision, the parties to any bond, bill, promissory note or other instrument of writing for the payment or forbearance of money may stipulate therein for interest receivable upon the amount of such bond, bill, note or other instrument of writing, at a rate not to exceed 15% per annum unless otherwise specifically authorized by law.

(b) ~~The interest rate limitation set forth in this subsection applies to all first mortgage loans and contracts for deed to real estate, unless the parties agree in writing to make the transaction subject to the uniform consumer credit code, K.S.A. 16a-1-101 to 16a-9-102, and amendments thereto. The interest rate limitation set forth in this subsection does not apply to a second mortgage loan governed by the uniform consumer credit code, K.S.A. 16a-1-101 to 16a-9-102, and amendments thereto, unless the lender and the borrower agree in writing that the interest rate for the loan is to be governed by this subsection. The maximum rate of interest per annum for notes secured by real estate mortgages and contracts for deed to real estate governed by this subsection shall be at an amount equal to 1 1/2 percentage points above the yield of thirty-year fixed rate conventional home mortgages committed for delivery within 61 to 90 days accepted under the federal home loan mortgage corporation's daily offerings for sale on the last day on which commitments for such mortgages were received in the preceding month unless otherwise specifically authorized by law. Such interest rate shall be computed for each calendar month and be effective on the first day thereof. The secretary of state shall publish notice of such maximum interest rate not later than the second issue of the Kansas register published each month.~~

~~(c)~~ No penalty shall be assessed against any party for prepayment of any home loan evidenced by a note secured by a real estate mortgage where such prepayment is made more than six months after execution of such note.

~~(d)~~ (c) The lender may collect from the borrower:

(1) The actual fees paid a public official or agency of the state, or federal government, for filing, recording or releasing any instrument relating to a loan subject to the provisions of this section; and

(2) reasonable expenses incurred by the lender in connection with the making, closing, disbursing, extending, readjusting or renewing of loans subject to the provisions of this section.

~~(e)~~ (d) Any person so contracting for a greater rate of interest than that authorized by this section shall forfeit all interest so contracted for in excess of the amount authorized under this section; and in addition thereto shall forfeit a sum of money, to be deducted from the amount due for principal and lawful interest, equal to the amount of interest contracted for in excess of the amount authorized by this section and such amounts may be set up as a defense or counterclaim in any action to enforce the collection of such obligation and the borrower shall also recover a reasonable attorney fee.

~~(f)~~ (e) The interest rates prescribed in ~~subsections (a) and (b) of this section~~ subsection (a) shall not apply to a business or agricultural loan. For the purpose of this

section unless a loan is made primarily for personal, family or household purposes, the loan shall be considered a business or agricultural loan. For the purpose of this subsection, a business or agricultural loan shall include credit sales and notes secured by contracts for deed to real estate.

~~(g)~~ (f) Loans made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant, are not subject to the interest rates prescribed in ~~subsections (a) and (b) of this section~~ subsection (a).

~~(h)~~ (g) The interest rates prescribed in ~~subsections (a) and (b) of this section~~ subsection (a) shall not apply to a note secured by a real estate mortgage or a contract for deed to real estate where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule.

~~(i)~~ (h) A first mortgage loan incurred for personal, family or household purposes may be subject to certain provisions of the uniform consumer credit code, K.S.A. 16a-1-101 to 16a-9-102, and amendments thereto, as follows:

(1) Certain high loan-to-value first mortgage loans are subject to the provisions of the uniform consumer credit code, other than its usury provisions. Examples of provisions of the uniform consumer credit code applicable to high loan-to-value first mortgage loans include, but are not limited to: Limitations on prepaid finance charges; mandatory appraisals; required disclosures; restrictions on balloon payments and negative amortization; limitations on late fees and collection costs; and mandatory default notices and cure rights.

(2) Certain high interest rate first mortgage loans are subject to certain provisions of the uniform consumer credit code, including, without limitation, provisions which impose restrictions on balloon payments and negative amortization.

(3) If the parties to a first mortgage loan agree in writing to make the transaction subject to the uniform consumer credit code, than all applicable provisions of the uniform consumer credit code, including its usury provisions, apply to the loan.

This subsection is for informational purposes only and does not limit or expand the scope of the uniform consumer credit code.

~~(j)~~ (i) Subsections ~~(c), (d) and (e) of this section~~ (b), (c) and (d) do not apply to a first mortgage loan if:

(1) The parties agree in writing to make the transaction subject to the uniform consumer credit code, K.S.A. 16a-1-101 to 16a-9-102, and amendments there~~to,~~; or

(2) the loan is a high loan-to-value first mortgage loan subject to any provision of the uniform consumer credit code.

In the case of a loan described in ~~subparts~~ paragraphs (1) or (2) ~~of the preceding sentence~~, the applicable provisions of the uniform consumer credit code shall govern the loan in lieu of subsections ~~(c), (d) and (e) of this section~~ (b), (c) and (d).

Sec. 2. K.S.A. 16-207 and K.S.A. 16-207, as amended by 2013 Senate Bill No. 52 are 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 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 "mortgage interest rates; amending K.S.A. 16-207 and repealing the existing section; also repealing K.S.A. 16-207, as amended by 2013 Senate Bill No. 52";

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

PETE DEGRAAF
JIM KELLY
STAN FROWNFELTER
Conferees on part of House

ROB OLSON
JEFF LONGBINE
TOM HAWK
Conferees on part of Senate

On motion of Rep. DeGraaf, the conference committee report on **SB 129** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Peterson, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 124** 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, in line 13, by striking all before "an" and inserting "Except as otherwise provided in subsections (d) and (e), the Kansas restraint of trade act shall be construed in harmony with ruling judicial interpretations of federal antitrust law by the United States supreme court. If such judicial interpretations are in conflict with or inconsistent with the express provisions of subsection (c), the provisions of subsection (c) shall control.

(c) ";

Also on page 2, by striking all in lines 24 through 40;

On page 3, in line 10, before "The" by inserting "(d) The Kansas restraint of trade act shall not be construed to prohibit:

(1) Actions or proceedings concerning intrastate commerce;

(2) actions or proceedings by indirect purchasers pursuant to K.S.A. 50-161, and amendments thereto;

(3) recovery of damages pursuant to K.S.A. 50-161, and amendments thereto;

(4) any remedy or penalty provided in the Kansas restraint of trade act, including, but not limited to, recovery of civil penalties pursuant to K.S.A. 50-160, and amendments thereto; and

(5) any action or proceeding brought by the attorney general pursuant to authority provided in the Kansas restraint of trade act, or any other power or duty of the attorney general provided in such act.

(e)";

And by redesignating subsections accordingly;

On page 5, in line 19, by striking "(1)"; in line 30, by striking "(2)"; in line 33, by striking "either but not both: (A)"; in line 34, by striking all following "sustained"; by striking all in lines 35 through 38; in line 39, by striking "(3)";

On page 6, in line 8, by striking ", 50-"; in line 9, by striking "158 and 50-161" and inserting "and 50-112"; also in line 9, by striking "cause"; in line 10, by striking "of action" and inserting "choses in action or defenses"; in line 11, following the first "act" by inserting "amended or"; also in line 11, by striking "cause of action that has" and inserting "choses in action or defenses that have"; in line 12, by striking "March 1, 2013," and inserting "the effective date of this act"; also in line 12, by striking "such"; in line 13, by striking "March 1, 2013" and inserting "the effective date of this act"; in line 19, by striking "statute book" and inserting "Kansas register";

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

LANCE KINZER
ROB BRUCHMAN
JANICE L. PAULS
Conferees on part of House

JEFF KING
GREG SMITH
Conferees on part of Senate

On motion of Rep. Kinzer, the conference committee report on **SB 124** was adopted.

On roll call, the vote was: Yeas 97; Nays 23; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Lusk, Macheers, Mast, McPherson, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker,

Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Todd, Trimmer, Vickrey, Waymaster, Weber, Whipple.

Nays: Alcala, Ballard, Bridges, Burroughs, Davis, Dillmore, Finney, Frownfelter, Henderson, Henry, Houston, Kuether, Lane, Meier, Peterson, Ruiz, Sloop, Victors, Ward, Weigel, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Sawyer, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 187** 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 26, following line 11, by inserting the following:

"Sec. 7. K.S.A. 2012 Supp. 2-224a is hereby amended to read as follows: 2-224a. (a) Notwithstanding the provisions of K.S.A. 44-576, and amendments thereto, the state fair board is hereby authorized to purchase workers compensation insurance from an admitted carrier. Any contract for the purchase of workers compensation insurance entered into by the state fair board shall be purchased in the manner prescribed for the purchase of supplies, materials, equipment and contractual services as provided in K.S.A. 75-3738 through 75-3744, and amendments thereto, and any such contract having a premium or rate in excess of $500 shall be purchased on the basis of sealed bids. Such contract shall not be subject to the provisions of K.S.A. 75-4101 through 75-4114 and K.S.A. 2012 Supp. 75-4125, and amendments thereto.

(b) If the state fair board enters into a contract for the purchase of workers compensation insurance as described in subsection (a), from and after the end of the payroll period in which such workers compensation policy takes effect, the state fair board shall not be subject to the self-insurance assessment prescribed by K.S.A. 44-576, and amendments thereto, and the director of accounts and reports shall cease to transfer any amounts for such self-assessment for the state fair board pursuant to such statute, except that any moneys paid relating to existing claims with the state workers compensation self-insurance fund made by the state fair board shall be assessed to the state fair board until all such claims have been closed and settled.

(c) Notwithstanding the provisions of K.S.A. 44-575, and amendments thereto, if the state fair board enters into a contract for the purchase of workers compensation insurance as described in subsection (a), the state workers compensation self-insurance fund shall not be liable for any compensation claims under the workers compensation act relating to the state fair board and arising during the term of such contract, or for any other amounts otherwise required to be paid under the workers compensation act during the term of such contract.

(d) The state fair board shall notify ~~the secretary of administration and~~ the secretary of health and environment of the effective date of any workers compensation policy acquired pursuant to this section.

Sec. 8. K.S.A. 2012 Supp. 44-510d is hereby amended to read as follows: 44-

510d. (a) Where disability, partial in character but permanent in quality, results from the injury, the injured employee shall be entitled to the compensation provided in K.S.A. 44-510h and 44-510i, and amendments thereto. The injured employee may be entitled to payment of temporary total disability as defined in K.S.A. 44-510c, and amendments thereto, or temporary partial disability as defined in subsection (a)(1) of K.S.A. 44-510e, and amendments thereto, provided that the injured employee shall not be entitled to any other or further compensation for or during the first week following the injury unless such disability exists for three consecutive weeks, in which event compensation shall be paid for the first week. Thereafter compensation shall be paid for temporary total or temporary partial disability as provided in the following schedule, $66^{2}/_{3}$% of the average weekly wages to be computed as provided in K.S.A. 44-511, and amendments thereto, except that in no case shall the weekly compensation be more than the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

(b) If there is an award of permanent disability as a result of the injury there shall be a presumption that disability existed immediately after the injury and compensation is to be paid for not to exceed the number of weeks allowed in the following schedule:

(1) For loss of a thumb, 60 weeks.

(2) For the loss of a first finger, commonly called the index finger, 37 weeks.

(3) For the loss of a second finger, 30 weeks.

(4) For the loss of a third finger, 20 weeks.

(5) For the loss of a fourth finger, commonly called the little finger, 15 weeks.

(6) Loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of ½ of such thumb or finger, and the compensation shall be ½ of the amount specified above. The loss of the first phalange and any part of the second phalange of any finger, which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of $^{2}/_{3}$ of such finger and the compensation shall be $^{2}/_{3}$ of the amount specified above. The loss of the first phalange and any part of the second phalange of a thumb which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of the entire thumb. The loss of the first and second phalanges and any part of the third proximal phalange of any finger, shall be considered as the loss of the entire finger. Amputation through the joint shall be considered a loss to the next higher schedule.

(7) For the loss of a great toe, 30 weeks.

(8) For the loss of any toe other than the great toe, 10 weeks.

(9) The loss of the first phalange of any toe shall be considered to be equal to the loss of ½ of such toe and the compensation shall be ½ of the amount above specified.

(10) The loss of more than one phalange of a toe shall be considered to be equal to the loss of the entire toe.

(11) For the loss of a hand, 150 weeks.

(12) For the loss of a forearm, 200 weeks.

(13) For the loss of an arm, excluding the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures, 210 weeks, and for the loss of an arm, including the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures, 225 weeks.

(14) For the loss of a foot, 125 weeks.

(15) For the loss of a lower leg, 190 weeks.

(16) For the loss of a leg, 200 weeks.

(17) For the loss of an eye, or the complete loss of the sight thereof, 120 weeks.

(18) Amputation or severance below the wrist shall be considered as the loss of a hand. Amputation at the wrist and below the elbow shall be considered as the loss of the forearm. Amputation at or above the elbow shall be considered loss of the arm. Amputation below the ankle shall be considered loss of the foot. Amputation at the ankle and below the knee shall be considered as loss of the lower leg. Amputation at or above the knee shall be considered as loss of the leg.

(19) For the complete loss of hearing of both ears, 110 weeks.

(20) For the complete loss of hearing of one ear, 30 weeks.

(21) Permanent loss of the use of a finger, thumb, hand, shoulder, arm, forearm, toe, foot, leg or lower leg or the permanent loss of the sight of an eye or the hearing of an ear, shall be equivalent to the loss thereof. For the permanent partial loss of the use of a finger, thumb, hand, shoulder, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear, compensation shall be paid as provided for in K.S.A. 44-510c, and amendments thereto, per week during that proportion of the number of weeks in the foregoing schedule provided for the loss of such finger, thumb, hand, shoulder, arm, toe, foot or leg or the sight of an eye or the hearing of an ear, which partial loss thereof bears to the total loss of a finger, thumb, hand, shoulder, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear; but in no event shall the compensation payable hereunder for such partial loss exceed the compensation payable under the schedule for the total loss of such finger, thumb, hand, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear, exclusive of the healing period. As used in this paragraph (21), "shoulder" means the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures.

(22) For traumatic hernia, compensation shall be limited to the compensation under K.S.A. 44-510h and 44-510i, and amendments thereto, compensation for temporary total disability during such period of time as such employee is actually unable to work on account of such hernia, and, in the event such hernia is inoperable, weekly compensation during 12 weeks, except that, in the event that such hernia is operable, the unreasonable refusal of the employee to submit to an operation for surgical repair of such hernia shall deprive such employee of any benefits under the workers compensation act.

(23) Loss of or loss of use of a scheduled member shall be based upon permanent impairment of function to the scheduled member as determined using the fourth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein, until January 1, 2015, but for injuries occurring on and after January 1, 2015, shall be determined by using the sixth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein.

(24) Where an injury results in the loss of or loss of use of more than one scheduled member within a single extremity, the functional impairment attributable to each scheduled member shall be combined pursuant to the fourth edition of the American medical association guides for evaluation of permanent impairment until January 1, 2015, but for injuries occurring on and after January 1, 2015, shall be combined pursuant to the sixth edition of the American medical association guides to the evaluation of permanent impairment, and compensation awarded shall be calculated to the highest scheduled member actually impaired.

(c) Whenever the employee is entitled to compensation for a specific injury under the foregoing schedule, the same shall be exclusive of all other compensation except the benefits provided in K.S.A. 44-510h and 44-510i, and amendments thereto, and no additional compensation shall be allowable or payable for any temporary or permanent, partial or total disability, except that the director, in proper cases, may allow additional compensation during the actual healing period, following amputation. The healing period shall not be more than 10% of the total period allowed for the scheduled injury in question nor in any event for longer than 15 weeks. The return of the employee to the employee's usual occupation shall terminate the healing period.

(d) The amount of compensation for permanent partial disability under this section shall be determined by multiplying the payment rate by the weeks payable. As used in this section:

(1) Payment rate shall be the lesser of: (A) The amount determined by multiplying the average weekly wage of the worker prior to such injury by $66^{2}/_{3}\%$; or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto;

(2) weeks payable shall be determined as follows: (A) Determine the weeks of benefits provided for the injury on schedule; (B) determine the weeks of temporary compensation paid by adding the amounts of temporary total and temporary partial disability compensation paid and dividing the sum by the payment rate above; (C) subtract the weeks of temporary compensation calculated in (d)(2)(B) from the weeks of benefits provided for the injury as determined in (d)(2)(A); and (D) multiply the weeks as determined in (d)(2)(C) by the percentage of permanent partial impairment of function as determined under subsection (b)(23).

The resulting award shall be paid for the number of weeks at the payment rate until fully paid or modified. Under no circumstances shall the period of permanent partial disability run concurrently with the period of temporary total or temporary partial disability.

Sec. 9. K.S.A. 2012 Supp. 44-510e is hereby amended to read as follows: 44-510e. (a) In case of whole body injury resulting in temporary or permanent partial general disability not covered by the schedule in K.S.A. 44-510d, and amendments thereto, the employee shall receive weekly compensation as determined in this subsection during the period of temporary or permanent partial general disability not exceeding a maximum of 415 weeks.

(1) Weekly compensation for temporary partial general disability shall be $66^{2}/_{3}\%$ of the difference between the average weekly wage that the employee was earning prior to the date of injury and the amount the employee is actually earning after such injury in any type of employment. In no case shall such weekly compensation exceed the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

(2) (A) Permanent partial general disability exists when the employee is disabled in a manner which is partial in character and permanent in quality and which is not covered by the schedule in K.S.A. 44-510d, and amendments thereto. Compensation for permanent partial general disability shall also be paid as provided in this section where an injury results in:

(i) The loss of or loss of use of a shoulder, arm, forearm or hand of one upper extremity, combined with the loss of or loss of use of a shoulder, arm, forearm or hand of the other upper extremity;

(ii) the loss of or loss of use of a leg, lower leg or foot of one lower extremity,

combined with the loss of or loss of use of a leg, lower leg or foot of the other lower extremity; or

(iii) the loss of or loss of use of both eyes.

(B) The extent of permanent partial general disability shall be the percentage of functional impairment the employee sustained on account of the injury as established by competent medical evidence and based on the fourth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein, until January 1, 2015, but for injuries occurring on and after January 1, 2015, based on the sixth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein.

(C) An employee may be eligible to receive permanent partial general disability compensation in excess of the percentage of functional impairment ("work disability") if:

(i) The percentage of functional impairment determined to be caused solely by the injury exceeds 7½% to the body as a whole or the overall functional impairment is equal to or exceeds 10% to the body as a whole in cases where there is preexisting functional impairment; and

(ii) the employee sustained a post-injury wage loss, as defined in subsection (a)(2)(E) of K.S.A. 44-510e, and amendments thereto, of at least 10% which is directly attributable to the work injury and not to other causes or factors.

In such cases, the extent of work disability is determined by averaging together the percentage of post-injury task loss demonstrated by the employee to be caused by the injury and the percentage of post-injury wage loss demonstrated by the employee to be caused by the injury.

(D) "Task loss" shall mean the percentage to which the employee, in the opinion of a licensed physician, has lost the ability to perform the work tasks that the employee performed in any substantial gainful employment during the five-year period preceding the injury. The permanent restrictions imposed by a licensed physician as a result of the work injury shall be used to determine those work tasks which the employee has lost the ability to perform. If the employee has preexisting permanent restrictions, any work tasks which the employee would have been deemed to have lost the ability to perform, had a task loss analysis been completed prior to the injury at issue, shall be excluded for the purposes of calculating the task loss which is directly attributable to the current injury.

(E) "Wage loss" shall mean the difference between the average weekly wage the employee was earning at the time of the injury and the average weekly wage the employee is capable of earning after the injury. The capability of a worker to earn post-injury wages shall be established based upon a consideration of all factors, including, but not limited to, the injured worker's age, physical capabilities, education and training, prior experience, and availability of jobs in the open labor market. The administrative law judge shall impute an appropriate post-injury average weekly wage based on such factors. Where the employee is engaged in post-injury employment for wages, there shall be a rebuttable presumption that the average weekly wage an injured worker is actually earning constitutes the post-injury average weekly wage that the employee is capable of earning. The presumption may be overcome by competent evidence.

(i) To establish post-injury wage loss, the employee must have the legal capacity to enter into a valid contract of employment. Wage loss caused by voluntary resignation

or termination for cause shall in no way be construed to be caused by the injury.

(ii) The actual or projected weekly value of any employer-paid fringe benefits are to be included as part of the worker's post-injury average weekly wage and shall be added to the wage imputed by the administrative law judge pursuant to K.S.A. 44-510e(a)(2)(E), and amendments thereto.

(iii) The injured worker's refusal of accommodated employment within the worker's medical restrictions as established by the authorized treating physician and at a wage equal to 90% or more of the pre-injury average weekly wage shall result in a rebuttable presumption of no wage loss.

(F) The amount of compensation for whole body injury under this section shall be determined by multiplying the payment rate by the weeks payable. As used in this section: (1) The payment rate shall be the lesser of: (A) The amount determined by multiplying the average weekly wage of the worker prior to such injury by $66^{2}/_{3}\%$; or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto; (2) weeks payable shall be determined as follows: (A) Determine the weeks of temporary compensation paid by adding the amounts of temporary total and temporary partial disability compensation paid and dividing the sum by the payment rate above; (B) subtract from 415 weeks the total number of weeks of temporary compensation paid as determined in (F)(2)(A), excluding the first 15 such weeks; and (3) multiply the number of weeks as determined in (F)(2)(B) by the percentage of functional impairment pursuant to subsection (a)(2)(B) or the percentage of work disability pursuant to subsection (a)(2)(C), whichever is applicable.

(3) When an injured worker is eligible to receive an award of work disability, compensation is limited to the value of the work disability as calculated above. In no case shall functional impairment and work disability be awarded together.

The resulting award shall be paid for the number of disability weeks at the payment rate until fully paid or modified. In any case of permanent partial disability under this section, the employee shall be paid compensation for not to exceed 415 weeks following the date of such injury. If there is an award of permanent disability as a result of the compensable injury, there shall be a presumption that disability existed immediately after such injury. Under no circumstances shall the period of permanent partial disability run concurrently with the period of temporary total or temporary partial disability.

(b) If an employee has sustained an injury for which compensation is being paid, and the employee's death is caused by other and independent causes, any payment of compensation already due the employee at the time of death and then unpaid shall be paid to the employee's dependents directly or to the employee's legal representatives if the employee left no dependent, but the liability of the employer for the payments of compensation not yet due at the time of the death of such employee shall cease and be abrogated by the employee's death.

(c) The total amount of compensation that may be allowed or awarded an injured employee for all injuries received in any one accident shall in no event exceed the compensation which would be payable under the workers compensation act for 100% permanent total disability resulting from such accident.

(d) Where a minor employee or a minor employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim

or cause of action against the employer shall inure or accrue to or exist in favor of the parent or parents of such minor employee on account of any damage resulting to such parent or parents on account of the loss of earnings or loss of service of such minor employee.

employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim or action shall inure, accrue to or exist in favor of the surviving spouse or any relative or next of kin of such employee against such employer on account of any damage resulting to such surviving spouse or any relative or next of kin on account of the loss of earnings, services, or society of such employee or on any other account resulting from or growing out of the injury or death of such employee.

Sec. 10. K.S.A. 44-512 is hereby amended to read as follows: 44-512. Workers compensation payments shall be made at the same time, place and in the same manner as the wages of the worker were payable at the time of the accident, but upon the application of either party the administrative law judge may modify such requirements in a particular case as the administrative law judge deems just, except that: (a) Payments from the workers compensation fund established by K.S.A. 44-566a, and amendments thereto, shall be made in the manner approved by the commissioner of insurance; (b) payments from the state workers compensation self-insurance fund established by K.S.A. 44-575, and amendments thereto, shall be made in a manner approved by the secretary of ~~administration~~ health and environment; and (c) whenever temporary total disability compensation is to be paid under the workers compensation act, payments shall be made only in cash, by check or in the same manner that the employee is normally compensated for salary or wages and not by any other means, except that any such compensation may be paid by warrant of the director of accounts and reports issued for payment of such compensation from the workers compensation fund or the state workers compensation self-insurance fund under the workers compensation act.

Sec. 11. ***K.S.A. 2012 Supp. 44-520 is hereby amended to read as follows: 44-520.*** (a) (1) Proceedings for compensation under the workers compensation act shall not be maintainable unless notice of injury by accident or repetitive trauma is given to the employer by the earliest of the following dates:

(A) ~~30~~ 20 calendar days from the date of accident or the date of injury by repetitive trauma;

(B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or

(C) if the employee no longer works for the employer against whom benefits are being sought, ~~20~~ 10 calendar days after the employee's last day of actual work for the employer.

Notice may be given orally or in writing.

(2) Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

(3) Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment. The burden shall be on the employee to prove that such notice was actually received by the employer.

(4) The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

(b) The notice required by subsection (a) shall be waived if the employee proves that: (1) The employer or the employer's duly authorized agent had actual knowledge of the injury; (2) the employer or the employer's duly authorized agent was unavailable to receive such notice within the applicable period as provided in paragraph (1) of subsection (a); or (3) the employee was physically unable to give such notice.

(c) For the purposes of calculating the notice period proscribed in subsection (a), weekends shall be included.

Sec. 12. K.S.A. 2012 Supp. 44-523 is hereby amended to read as follows: 44-523. (a) The director, administrative law judge or board shall not be bound by technical rules of procedure, but shall give the parties reasonable opportunity to be heard and to present evidence, ~~insure~~ ensure the employee and the employer an expeditious hearing and act reasonably without partiality.

(b) Whenever a party files an application for hearing pursuant to K.S.A. 44-534, and amendments thereto, the matter shall be assigned to an administrative law judge for hearing and the administrative law judge shall set a terminal date to require the claimant to submit all evidence in support of the claimant's claim no later than 30 days after the first full hearing before the administrative law judge and to require the respondent to submit all evidence in support of the respondent's position no later than 30 days thereafter. An extension of the foregoing time limits shall be granted if all parties agree. An extension of the foregoing time limits may also be granted:

(1) If the employee is being paid temporary or permanent total disability compensation;

(2) for medical examination of the claimant if the party requesting the extension explains in writing to the administrative law judge facts showing that the party made a diligent effort but was unable to have a medical examination conducted prior to the submission of the case by the claimant but then only if the examination appointment was set and notice of the appointment sent prior to submission by the claimant; or

(3) on application for good cause shown.

(c) When all parties have submitted the case to an administrative law judge for an award, the administrative law judge shall issue an award within 30 days. The administrative law judge shall not stay a decision due to the absence of a submission letter. When the award is not entered in 30 days, any party to the action may notify the director that an award is not entered and the director shall assign the matter to an assistant director or to a special administrative law judge who shall enter an award forthwith based on the evidence in the record, or the director, on the director's own motion, may remove the case from the administrative law judge who has not entered an award within 30 days following submission by the party and assign it to an assistant director or to a special administrative law judge for immediate decision based on the evidence in the record.

(d) Not less than 10 days prior to the first full hearing before an administrative

law judge, the administrative law judge shall conduct a prehearing settlement conference for the purpose of obtaining stipulations from the parties, determining the issues and exploring the possibility that the parties may resolve those issues and reach a settlement prior to the first full hearing.

(e) (1) If a party or a party's attorney believes that the administrative law judge to whom a case is assigned cannot afford that party a fair hearing in the case, the party or attorney may file a motion for change of administrative law judge. A party or a party's attorney shall not file more than one motion for change of administrative law judge in a case. The administrative law judge shall promptly hear the motion informally upon reasonable notice to all parties who have appeared in the case. Notwithstanding the provisions of K.S.A. 44-552, and amendments thereto, the administrative law judge shall decide, in the administrative law judge's discretion, whether or not the hearing of such motion shall be taken down by a certified shorthand reporter. If the administrative law judge disqualifies the administrative law judge's self, the case shall be assigned to another administrative law judge by the director. If the administrative law judge refuses to disqualify the administrative law judge's self, the party seeking a change of administrative law judge may, within 10 days of the refusal, file ~~in the district court of the county in which the accident or injury occurred the affidavit provided in subsection (e)(2). If an affidavit is to be filed in the district court, it shall be filed within 10 days~~ an appeal with the workers compensation board.

(2) ~~If a party or a party's attorney files an affidavit alleging any of the grounds specified in subsection (e)(3), the chief judge shall at once determine, or refer the affidavit to another district court judge for prompt determination of, the legal sufficiency of the affidavit. If the affidavit is filed in a district court in which there is no other judge who is qualified to hear the matter, the chief judge shall at once notify the departmental justice for the district and request the appointment of another district judge to determining the legal sufficiency of the affidavit. If the affidavit is found to be legally sufficient, the district court judge shall order the director to assign the case to another administrative law judge or to an assistant director~~ The party or a party's attorney shall file with the workers compensation board an affidavit alleging one or more of the grounds specified in subsection (e).

(3) If a majority of the workers compensation board finds legally sufficient grounds, it shall direct the director to assign the case to another administrative law judge.

~~(3)~~ (4) Grounds which may be alleged as provided in subsection (e)(2) for change of administrative law judge are that:

(A) The administrative law judge has been engaged as counsel in the case prior to the appointment as administrative law judge.

(B) The administrative law judge is otherwise interested in the case.

(C) The administrative law judge is related to either party in the case.

(D) The administrative law judge is a material witness in the case.

(E) The party or party's attorney filing the affidavit has cause to believe and does believe that on account of the personal bias, prejudice or interest of the administrative law judge such party cannot obtain a fair and impartial hearing. Such affidavit shall state the facts and the reasons for the belief that bias, prejudice or an interest exists.

~~(4)~~ (5) In any affidavit filed pursuant to subsection (e)(2), the recital of previous rulings or decisions by the administrative law judge on legal issues or concerning prior

motions for change of administrative law judge filed by counsel or such counsel's law firm, pursuant to this subsection, shall not be deemed legally sufficient for any ~~believe~~ belief that bias or prejudice exists.

(6) Notwithstanding the provisions of K.S.A. 44-556, and amendments thereto, no interlocutory appeal to the court of appeals of the workers compensation appeals board's decision regarding recusal shall be allowed while the resolution of the claim for compensation is pending before an administrative law judge or the workers compensation appeals board.

(f) (1) In any claim that has not proceeded to a regular hearing, a settlement hearing, or an agreed award under the workers compensation act within three years from the date of filing an application for hearing pursuant to K.S.A. 44-534, and amendments thereto, the employer shall be permitted to file with the division an application for dismissal based on lack of prosecution. The matter shall be set for hearing with notice to the claimant's attorney, if the claimant is represented, or to the claimant's last known address. The administrative law judge may grant an extension for good cause shown, which shall be conclusively presumed in the event that the claimant has not reached maximum medical improvement, provided such motion to extend is filed prior to the three year limitation provided for herein. If the claimant cannot establish good cause, the claim shall be dismissed with prejudice by the administrative law judge for lack of prosecution. Such dismissal shall be considered a final disposition at a full hearing on the claim for purposes of employer reimbursement from the fund pursuant to subsection (b) of K.S.A. 44-534a, and amendments thereto.

(2) In any claim which has not proceeded to regular hearing within one year from the date of a preliminary award denying compensability of the claim, the employer shall be permitted to file with the division an application for dismissal based on lack of prosecution. The matter shall be set for hearing with notice to the claimant's attorney, if the claimant is represented, or to the claimant's last known address. Unless the claimant can prove a good faith reason for delay, the claim shall be dismissed with prejudice by the administrative law judge. Such dismissal shall be considered a final disposition at a full hearing on the claim for purposes of employer reimbursement from the fund pursuant to subsection (b) of K.S.A. 44-534a, and amendments thereto.

(3) This section shall not affect any future benefits which have been left open upon proper application by an award or settlement.

Sec. 13. K.S.A. 2012 Supp. 44-532a is hereby amended to read as follows: 44-532a. (a) If an employer has no insurance or has an insufficient self-insurance bond or letter of credit to secure the payment of compensation ~~or has insufficiently funded a self-insurance bond~~, as provided in subsection (b)(1) and (2) of K.S.A. 44-532, and amendments thereto, and such employer is financially unable to pay compensation to an injured worker as required by the workers compensation act, or such employer cannot be located and required to pay such compensation, the injured worker may apply to the director for an award of the compensation benefits, including medical compensation, to which such injured worker is entitled, to be paid from the workers compensation fund. Whenever a worker files an application under this section, the matter shall be assigned to an administrative law judge for hearing. If the administrative law judge is satisfied as to the existence of the conditions prescribed by this section, the administrative law judge may make an award, or modify an existing award, and prescribe the payments to be made from the workers compensation fund as provided in K.S.A. 44-569, and

amendments thereto. The award shall be certified to the commissioner of insurance, and upon receipt thereof, the commissioner of insurance shall cause payment to be made to the worker in accordance therewith.

(b) The commissioner of insurance, acting as administrator of the workers compensation fund, shall have a cause of action against the employer for recovery of any amounts paid from the workers compensation fund pursuant to this section. Such action shall be filed in the district court of the county in which the accident occurred or where the contract of employment was entered into.

Sec. 14. K.S.A. 44-557 is hereby amended to read as follows: 44-557. (a) It is hereby made the duty of every employer to make or cause to be made a report to the director of any accident, or claimed or alleged accident, to any employee which occurs in the course of the employee's employment and of which the employer or the employer's supervisor has knowledge, which report shall be made upon a form to be prepared by the director, within 28 days, after the receipt of such knowledge, if the personal injuries which are sustained by such accidents, are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn on which such injuries were sustained.

(b) When such accident has been reported and subsequently such person has died, a supplemental report shall be filed with the director within 28 days after receipt of knowledge of such death, stating such fact and any other facts in connection with such death or as to the dependents of such deceased employee which the director may require. Such report or reports shall not be used nor considered as evidence before the director, any administrative law judge, the board or in any court in this state.

~~(c) No limitation of time in the workers compensation act shall begin to run unless a report of the accident as provided in this section has been filed at the office of the director if the injured employee has given notice of accident as provided by K.S.A. 44-520 and amendments thereto, except that any proceeding for compensation for any such injury or death, where report of the accident has not been filed, must be commenced by serving upon the employer a written claim pursuant to K.S.A. 44-520a and amendments thereto within one year from the date of the accident, suspension of payment of disability compensation, the date of the last medical treatment authorized by the employer, or the death of such employee referred to in K.S.A. 44-520a and amendments thereto.~~

~~(d)~~ (c) The repeated failure of any employer to file or cause to be filed any report required by this section shall be subject to a civil penalty for each violation of not to exceed $250.

~~(e)~~ (d) Any civil penalty imposed by this section shall be recovered, by the assistant attorney general upon information received from the director, by issuing and serving upon such employer a summary order or statement of the charges with respect thereto and a hearing shall be conducted thereon in accordance with the provisions of the Kansas administrative procedure act, except that, at the discretion of the director, such civil penalties may be assessed as costs in a workers compensation proceeding by an administrative law judge upon a showing by the assistant attorney general that a required report was not filed which pertains to a claim pending before the administrative law judge.

Sec. 15. K.S.A. 2012 Supp. 44-575 is hereby amended to read as follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and amendments thereto, "state agency"

means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the university of Kansas hospital authority, any political subdivision of the state or the district court with regard to district court officers or employees whose total salary is payable by counties.

(b) For the purposes of providing for the payment of compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto, there is hereby established the state workers compensation self-insurance fund in the state treasury. The name of the state workmen's compensation self-insurance fund is hereby changed to the state workers compensation self-insurance fund. Whenever the state workmen's compensation self-insurance fund is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the state workers compensation self-insurance fund.

(c) The state workers compensation self-insurance fund shall be liable to pay: (1) All compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto; (2) the amount that all state agencies are liable to pay of the "carrier's share of expense" of the administration of the office of the director of workers' compensation as provided in K.S.A. 74-712 through 74-719, and amendments thereto, for each fiscal year; (3) all compensation for claims remaining from the self-insurance program which existed prior to July 1, 1974, for institutional employees of the division of mental health and retardation services of the department of social and rehabilitation services; (4) the cost of administering the state workers compensation self-insurance fund including the defense of such fund and any costs assessed to such fund in any proceeding to which it is a party; and (5) the cost of establishing and operating the state workplace health and safety program under subsection (f). For the purposes of K.S.A. 44-575 through 44-580, and amendments thereto, all state agencies are hereby deemed to be a single employer whose liabilities specified in this section are hereby imposed solely upon the state workers compensation self-insurance fund and such employer is hereby declared to be a fully authorized and qualified self-insurer under K.S.A. 44-532, and amendments thereto, but such employer shall not be required to make any reports thereunder.

(d) The secretary of ~~administration~~ health and environment shall administer the state workers compensation self-insurance fund and all payments from such fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~administration~~ health and environment or a person or persons designated by the secretary. The director of accounts and reports may issue warrants pursuant to vouchers approved by the secretary for payments from the state workers compensation self-insurance fund notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated for the fiscal year in which the state workers compensation self-insurance fund first became liable to make such payments.

(e) The secretary of ~~administration~~ health and environment shall remit all moneys received by or for the secretary in the capacity as administrator of the state workers compensation self-insurance fund, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such

remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state workers compensation self-insurance fund.

(f) There is hereby established the state workplace health and safety program within the state workers compensation self-insurance program of the department of ~~administration~~ health and environment. The secretary of ~~administration~~ health and environment shall implement and ~~administer~~ the division of industrial health and safety of the Kansas department of labor shall assist in administering the state workplace health and safety program for state agencies. The state workplace health and safety program shall include, but not be limited to:

(1) Workplace health and safety hazard surveys in all state agencies, including onsite interviews with employees;

(2) workplace health and safety hazard prevention services, including inspection and consultation services;

(3) procedures for identifying and controlling workplace hazards;

(4) development and dissemination of health and safety informational materials, plans, rules and work procedures; and

(5) training for supervisors and employees in healthful and safe work practices.

Sec. 16. K.S.A. 2012 Supp. 44-577 is hereby amended to read as follows: 44-577. (a) All claims for compensation under the workers compensation act against any state agency for claims arising on and after July 1, 1974, and claims for compensation remaining from the self-insurance program which existed prior to July 1, 1974, for institutional employees of the division of mental health and retardation services of the department of social and rehabilitation services shall be made against the state workers compensation self-insurance fund. Such claims shall be served upon the secretary of ~~administration~~ health and environment in the secretary's capacity as administrator of the state workers compensation self-insurance fund in the manner provided for claims against other employers under the workers compensation act. The chief attorney for the department of ~~administration~~ health and environment, or another attorney of the department of ~~administration~~ health and environment designated by the chief attorney, shall represent and defend the state workers compensation self-insurance fund in all proceedings under the workers compensation act.

(b) The secretary of ~~administration~~ health and environment shall investigate, or cause to be investigated, each claim for compensation against the state workers compensation self-insurance fund. For the purposes of such investigations, the secretary of ~~administration~~ health and environment is authorized to obtain expert medical advice regarding the injuries, occupational diseases and disabilities involved in such claims. If, based upon such investigation and any other available information, the secretary of ~~administration~~ health and environment finds that there is no material dispute as to any issue involved in the claim, that the claim is valid and that the claim should be settled by agreement, the secretary of ~~administration~~ health and environment may proceed to enter into such an agreement with the claimant, for the state workers compensation self-insurance fund. Any such agreement may provide for lump-sum settlements subject to approval by the director and all such agreements shall be filed in the office of the director for approval as provided in K.S.A. 44-527, and amendments thereto. All other claims for compensation against such fund shall be paid in accordance with the workers compensation act pursuant to final awards or orders of an administrative law judge or the board or pursuant to orders and findings of the director under the workers

compensation act.

(c) For purposes of the workers compensation act, a volunteer member of a regional emergency medical response team as provided in K.S.A. 48-928, and amendments thereto, shall be considered a person in the service of the state in connection with authorized training and upon activation for emergency response, except when such duties arise in the course of employment or as a volunteer for an employer other than the state.

Sec. 17. K.S.A. 44-578 is hereby amended to read as follows: 44-578. The secretary of ~~administration~~ health and environment may adopt rules and regulations necessary for the administration of the state workers compensation self-insurance fund, including the processing and settling of claims for compensation made against such fund. ~~Such rules and regulations shall be subject to the provisions of K.S.A. 75-3706 and amendments thereto and shall be adopted in accordance therewith.~~";

And by renumbering sections accordingly;

Also on page 26, in line 12, following "44-510j" by inserting ", 44-512, 44-557 and 44-578"; also in line 12, by striking all following "Supp."; in line 13, by striking all before "44-709" and inserting 2-224a, 44-508, 44-510d, 44-510e, 44-520, 44-523, 44-532a, 44-551, 44-555c, 44-575, 44-577,"; in line 15, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 1, by striking "the"; also in line 1, by striking "and"; by striking all in line 2, in line 3, by striking all before the second semicolon and inserting "; relating to the employment security act; relating to the state workplace health and safety program"; in line 4, following "44-510j" by inserting ", 44-512, 44-557 and 44-578"; also in line 4, by striking all following "Supp."; in line 5, by striking all before "44-709" and inserting "2-224a, 44-508, 44-510d, 44-510e, 44-520, 44-523, 44-532a, 44-551, 44-555c, 44-575, 44-577,";

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

MARVIN KLEEB
GENE SUELLENTROP
Conferees on part of House

JULIA LYNN
SUSAN WAGLE
Conferees on part of Senate

On motion of Rep. Kleeb, the conference committee report on **SB 187** was adopted.

On roll call, the vote was: Yeas 89; Nays 31; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, Moxley, O'Brien, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan,

Suellentrop, Sutton, Swanson, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Bridges, Burroughs, Carlin, Davis, Dillmore, Finney, Frownfelter, Grant, Henderson, Henry, Houston, Kuether, Lane, Lusk, Meier, Menghini, Pauls, Perry, Peterson, Ruiz, Sloop, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Sawyer, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171** 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.

WARD CASSIDY
AMANDA GROSSERODE
VALDENIA C. WINN
Conferees on part of House

STEVE E. ABRAMS
TOM ARPKE
ANTHONY HENSLEY
Conferees on part of Senate

On motion of Rep. Cassidy the conference committee report on **SB 171** to agree to disagree, was adopted.

Speaker pro tem Mast thereupon appointed Reps. Cassidy, Grosserode and Winn as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2078** submits the following report:

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

On page 1, in line 11, after "thereto" by inserting ", except for licensing boards under K.S.A. 65-1116 and 65-6129, and amendments thereto"; in line 16, by striking "complete" and inserting "a completed"; in line 31, by striking "a"; also in line 31, by striking "person";

On page 2, in line 26, by striking "complete" and inserting "completed";

On page 3, in line 22, after the period by creating a paragraph;

On page 5, in line 13, by striking "under honorable conditions"; in line 14, by striking "(general) discharge" and inserting "with a general discharge under honorable conditions";

On page 7, in line 7, by striking "under honorable"; in line 8, by striking "conditions (general) discharge"; in line 9, after the stricken material, by inserting "with a general

discharge under honorable conditions";

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

MARY PILCHER-COOK
ELAINE BOWERS
LAURA KELLY
Conferees on part of Senate

MARIO GOICO
JOE SEIWERT
MELANIE MEIER
Conferees on part of House

On motion of Rep. Goico, the conference committee report on **HB 2078** was adopted.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Peterson, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Sawyer, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2107** submits the following report:

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

On page 5, in line 28, after "applicant" by inserting ", policy holder"; in line 33, by striking "shall" and inserting "may";

On page 6, in line 23, by striking "shall" and inserting "may"; by striking all in lines 28 through 30 and inserting the following:

"Sec. 6. K.S.A. 2012 Supp. 40-2124 is hereby amended to read as follows: 40-2124. (a) Coverage under the plan shall be subject to both deductible and coinsurance provisions set by the board. The plan shall offer to current participants and new enrollees no fewer than four choices of deductible and copayment options. Coverage

shall contain a coinsurance provision for each service covered by the plan, and such copayment requirement shall not be subject to a stop-loss provision. Such coverage may provide for a percentage or dollar amount of coinsurance reduction at specific thresholds of copayment expenditures by the insured.

(b) Coverage under the plan shall be subject to a maximum lifetime benefit of ~~$3,000,000~~ $4,000,000 per covered individual.

(c) Coverage under the plan shall exclude charges or expenses incurred during the first 90 days following the effective date of coverage as to any condition:

(1) Which manifested itself during the six-month period immediately prior to the application for coverage in such manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment; or

(2) for which medical advice, care or treatment was recommended or received in the six-month period immediately prior to the application for coverage. In succeeding years of operation of the plan, coverage of preexisting conditions may be excluded as determined by the board, except that no such exclusion shall exceed 180 calendar days, and no exclusion shall be applied to either a federally defined eligible individual provided that application for coverage is made not later than 63 days following the applicant's most recent prior creditable coverage or an individual under the age of 19 years who is eligible for enrollment in the plan under paragraph (3) of subsection (b) of K.S.A. 40-2122, and amendments thereto. For any individual who is eligible for the credit for health insurance costs under section 35 of the internal revenue code of 1986, the preexisting conditions limitation will not apply whenever such individual has maintained creditable health insurance coverage for an aggregate period of three months, not counting any period prior to a 63-day break in coverage, as of the date on which such individual seeks to enroll in coverage provided by this act.

(d) (1) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers compensation coverage, automobile medical payment or liability insurance whether provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(2) The association shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this section.

Sec. 7. K.S.A. 40-12a08 is hereby amended to read as follows: 40-12a08. No insured shall be liable for any amounts other than the annual premium. The business of the company shall be conducted so as to preclude any distribution of income, profit or property of the company to the individual members thereof except in payment of dividends, debts, claims or indemnities or upon the final dissolution of the company. Dividends may be credited to a member's account and distributed in accordance with a plan adopted by the board of directors.

Sec. 8. K.S.A. 39-719e is hereby amended to read as follows: 39-719e. (a) Upon the request of the secretary ~~of social and rehabilitation services~~ for aging and disability services or the Kansas department of health and environment, or both, each medical benefit plan provider that provides or maintains a medical benefit plan, that provides any hospital or medical services or any other health care or other medical benefits or

services, or both, in Kansas, shall provide the secretary with information, to the extent known by the medical benefit plan provider, identifying each person who is covered by such medical benefit plan or who is otherwise provided any such hospital or medical services or any other such health care or other medical benefits or services, or both, in Kansas under such medical benefit plan. The information shall be provided in such form as is prescribed by the secretary for the purpose of comparing such information with medicaid beneficiary information maintained by the secretary to assist in identifying other health care or medical benefit coverage available to medicaid beneficiaries. The secretary shall reimburse each medical benefit plan provider that provides information under this section for the reasonable cost of providing such information.

(b) All information provided by medical benefit plan providers under this section shall be confidential and shall not be disclosed pursuant to the provisions of the open records act or under the provisions of any other law. Such information may be used solely for the purpose of determining whether medical assistance has been paid or is eligible to be paid by the secretary for which a recovery from a medical benefit plan provider is due under K.S.A. 39-719a, and amendments thereto.

(c) Failure to provide information pursuant to a request by the secretary ~~of social and rehabilitation services~~ for aging and disability services or the Kansas department of health and environment, or both, under this section shall constitute a failure to reply to an inquiry of the commissioner of insurance and shall be subject to the penalties applicable thereto under K.S.A. ~~40-226~~ 40-2,125, and amendments thereto. If a medical plan provider fails to provide information to the secretary ~~of social and rehabilitation services~~ for aging and disability services or the Kansas department of health and environment, or both, pursuant to a request under this section, the secretary shall notify the commissioner of such failure. The commissioner of insurance may pursue each such failure to provide such information in accordance with K.S.A. ~~40-226~~ 40-2,125, and amendments thereto.

(d) As used in this section:

(1) "Medical benefit plan" means any accident and health insurance or any other policy, contract, plan or agreement that provides benefits or services, or both, for any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas, whether or not such benefits or services, or both, are provided pursuant to individual, group, blanket or certificates of accident and sickness insurance, any other insurance providing any accident and health insurance, or any other policy, contract, plan or agreement providing any such benefits or services, or both, in Kansas, and includes any policy, plan, contract or agreement offered in Kansas pursuant to the federal employee retirement income security act of 1974 (ERISA) that provides any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas; and

(2) "medical benefit plan provider" means any insurance company, nonprofit medical and hospital service corporation, health maintenance organization, fraternal benefit society, municipal group-funded pool, group-funded workers compensation pool or any other entity providing or maintaining a medical benefit plan.

(e) No medicaid provider who rendered professional services to a medicaid beneficiary and was paid by the secretary for such services shall be liable to the medical benefit plan provider for any amounts recovered pursuant to this act or pursuant to the

provisions of K.S.A. 39-719a, and amendments thereto.

Sec. 9. K.S.A. 40-1612 is hereby amended to read as follows: 40-1612. In addition to the provisions of this article, the provisions set forth in the following sections of the Kansas Statutes Annotated, and amendments thereto, which govern other types of insurance companies shall apply to reciprocals to the extent that such provisions do not conflict with the provisions of this article: Sections 40-208, 40-209, 40-214, 40-215, 40-216, 40-218, 40-220, 40-221a, 40-222, 40-223, 40-224, 40-225, 40-229, 40-229a, 40-231, 40-233, 40-234, 40-234a, 40-235, 40-236, 40-237, 40-238, 40-239, 40-240, 40-241, 40-242, 40-244, 40-245, 40-246, except as to contracts written through traveling salaried representatives to whom no commissions are paid, 40-246a, 40-247, 40-248, 40-249, 40-250, 40-251, 40-253, ~~40-254,~~ 40-256, 40-281, 40-2,125, 40-2,126, 40-2,127, 40-2,128, 40-2,156, 40-2,156a, 40-2,157, 40-2,159, 40-952, 40-2001, 40-2002, 40-2003, 40-2004, 40-2005, 40-2006 and 40-2404 and article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any other provision of law pertaining to insurance which specifically refers to reciprocals.

Sec. 10. K.S.A. 40-19a10 is hereby amended to read as follows: 40-19a10. (a) Such corporations shall be subject to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, ~~40-226,~~ 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, ~~40-254,~~ 40-2,102, 40-2a01 et seq., 40-2215 to 40-2220, inclusive, 40-2253, 40-2401 to 40-2421, inclusive, 40-3301 to 40-3313, inclusive, K.S.A. 40-2,125, 40-2,154 and 40-2,161, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Sec. 11. K.S.A. 2012 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, ~~40-226,~~ 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, ~~40-254,~~ 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2012 Supp. 40-2,105a, 40-2,105b, 40-2,184 and 40-2,190, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social

security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

New Sec. 12. (a) This section shall apply to all insurers transacting business in the state offering individual or group sickness and accident insurance. Such insurers also may offer a mandate lite health benefit plan. A group or individual carrier may also offer a mandate lite health benefit plan.

(b) A mandate lite health benefit plan means an individual or group sickness and accident insurance plan that does not contain one or more of the Kansas-mandated benefits other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(c) The mandate lite health benefit plan shall contain the definitions of group or individual sickness and accident insurance with respect to major medical benefits and standard provisions or rights of coverage.

(d) The mandate lite health benefit plan may be issued on a group or individual basis.

(e) The insured shall be provided with a written notice that one or more of the state-mandated benefits are not included in the mandate lite health benefit plan.

(1) The mandate lite health benefit plan shall specify the health services that are included and shall specifically list the health services that will be limited or not covered from the list of state-mandated coverage other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(2) The insurer is required to retain a signed copy of this notice on file as a part of the original application as evidence that the insured has acknowledged such notice.

(3) Such signed copy may be in original form, electronic file form or in any other reproducible file form as may be consistent with the insurer's method of retaining application copies.

(f) The definition of preexisting conditions may not be more restrictive than the definition of preexisting conditions normally used for the corresponding regular individual or group insurance contracts.

(g) The mandate lite health benefit plan may offer:

(1) Various optional combinations of coverage for generic, formulary and non-formulary drugs.

(2) The mandate lite health benefit plan may offer drug discount plans.

(h) A mandate lite health benefit plan may charge additional premiums for each optional benefit offered. Optional benefits may include mandated benefits that are not included in the mandate lite health benefit plan.

(i) This section shall be known and may be cited as the mandate lite health benefit plan act.

New Sec. 13. (a) Any portion of the health insurance premiums paid by consumers that are in fact passed through as commissions shall not be considered a part of administrative expenses and shall be excluded from all determinations of the medical loss ratio calculations when totaling the ratio of premiums paid by a consumer used for claims versus administrative expenses for a policy. Any portion of premiums identified as commissions must be paid to a nonemployee in order to be excluded. Any portion of the premiums retained by the insurance company or its employees must be considered as a part of the calculation of the medical loss ratio as administrative related income.

(b) For the purposes of this section, "commission" means commissions to agents,

consultation fees, counseling fees, consultant fees, and similar advising or sales compensation to a nonemployee licensed agent.

New Sec. 14. (a) For the purposes of this section:

(1) "Specially designed policy" means an insurance policy that by design may not meet all or part of the definitions of a group or individual sickness and accident insurance policy and includes temporary sickness and accident insurance on a short-term basis.

(2) "Short-term" means an insurance policy period of six months or 12 months, based upon policy design, which offers not more than one renewal period with or without a requirement of medical re-underwriting or medical requalification.

(A) Because a short-term policy addresses the special needs for temporary coverage, a short-term policy is not subject to continuation provisions of the health insurance portability and accountability act of 1996 (public law 104-191).

(B) Because a short-term policy addresses the special needs for temporary coverage, a short-term policy shall be exempt from medical loss ratio calculations associated with individual sickness and accident insurance issued within the state unless such calculation excludes any monthly administration fee associated with the sale of such policy.

(b) Specially designed policies shall include policies designed to provide sickness and accident insurance for specific coverage of benefits or services that may be excluded as benefits or services cited under section 12, and amendments thereto. Specially designed policies may include the following stand-alone policies and coverages:

(1) Chiropractic plans;

(2) acupuncture coverage plans;

(3) holistic medical treatment plans;

(4) podiatrist plans;

(5) pharmacy plans;

(6) psychiatric plans;

(7) allergy plans; and

(8) such other stand-alone plans or combinations of plans of accepted traditional and nontraditional medical practice as shall be allowable for exclusion from group or individual plans under section 12, and amendments thereto.

(c) No specially designed policy shall be deemed to be included under the definition of group sickness and accident insurance, including short-term, limited-duration health insurance, issued or renewed inside or outside of this state and covering persons residing in this state.

Sec. 15. K.S.A. 39-719e, 40-254, 40-2,112, 40-12a08, 40-1612 and 40-19a10 and K.S.A. 2012 Supp. 40-19c09 and 40-2124 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, in line 1, by striking all after the semicolon; in line 2, by striking all before "enacting"; in line 3, by striking "allowing"; by striking all in line 4; in line 5, by striking all before the period and inserting "relating to the Kansas uninsurable health plan act; relating to updating certain statutory references; relating to mandate lite health benefit plans; amending K.S.A. 39-719e, 40-2,112, 40-12a08, 40-1612 and 40-19a10 and K.S.A. 2012 Supp. 40-19c09 and 40-2124 and repealing the

existing sections; also repealing K.S.A. 40-254";

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

ROBERT OLSON
JEFF LONGBINE
TOM HAWK
Conferees on part of Senate

CLARK SHULTZ
PHIL HERMANSON
GAIL FINNEY
Conferees on part of House

On motion of Rep. Hermanson to adopt the conference committee report on **HB 2107**, Rep. Ward made a substitute motion to not adopt the conference committee report and that a new conference committee be appointed.

Roll call was demanded.

On roll call, the vote was: Yeas 68; Nays 51; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alcala, Alford, Ballard, Barker, Bideau, Bollier, Bradford, Bridges, Burroughs, Campbell, Carlin, Clayton, Concannon, Davis, Dierks, Dillmore, Doll, Dove, Edmonds, Ewy, Finney, Frownfelter, Gonzalez, Grant, Henderson, Henry, Hibbard, Hill, Hineman, Houston, Huebert, Jennings, Johnson, Kelley, Kuether, Lane, Lusk, Meier, Menghini, Montgomery, Moxley, O'Brien, Pauls, Perry, Petty, Phillips, Proehl, Read, Rooker, Rubin, Ruiz, Ryckman Sr., Schroeder, Schwartz, Siegfreid, Sloan, Sloop, Swanson, Todd, Trimmer, Victors, Ward, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Becker, Boldra, Bruchman, Brunk, Couture-Lovelady, Carlson, Carpenter, Cassidy, Christmann, Claeys, Corbet, Crum, DeGraaf, Edwards, Esau, Gandhi, Garber, Goico, Grosserode, Hawkins, Hedke, Hermanson, Highland, Hildabrand, Hoffman, Houser, Howell, Hutton, Jones, Kahrs, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Peck, Powell, Rhoades, Rothlisberg, Ryckman Jr., Schwab, Seiwert, Shultz, Suellentrop, Sutton, Vickrey, Waymaster.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Thimesch, Tietze.

The motion of Rep. Ward prevailed.

Speaker pro tem Mast thereupon appointed Reps. Shultz, Hermanson and Finney as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2109** submits the following report:

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

On page 1, by striking all in lines 5 through 31;

On page 2, by striking all in lines 1 through 7; and inserting the following:

"Section 1. (a) Any school district that provides public access to a computer shall

implement and enforce technology protection measures to ensure that no minor has access to visual depictions that are child pornography, harmful to minors or obscene. Each board of education shall adopt policies for the enforcement of this subsection. Such policies and any standards or rules promulgated pursuant to such policies shall be made available to the public.

(b) (1) Any public library that provides public access to a computer shall implement and enforce technology protection measures to:

(A) Ensure that no minor has access to visual depictions that are child pornography, harmful to minors or obscene; and

(B) ensure that no person has access to visual depictions that are child pornography or obscene.

(2) An employee of a public library may disable a technology protection measure if:

(A) Requested to do so by a library patron who is not a minor; and

(B) the technology protection measure is disabled only to enable access for legitimate research or other lawful purpose.

(c) The state librarian shall establish standards and promulgate rules and regulations for the enforcement of the provisions of subsection (b). Such standards and rules and regulations shall be distributed to the public libraries in this state, posted in a conspicuous place in such public libraries and made available to the public.

(d) The governing body of each public library shall adopt a policy to implement and enforce the provisions of subsection (b) in accordance with the standards and rules and regulations described in subsection (c). Such policy shall be reviewed at least once every three years by such governing body and shall:

(1) State that the purpose of the policy is to restrict access to those materials that are child pornography, harmful to minors or obscene;

(2) provide how such public library will meet the requirements of this section;

(3) require such public library to inform its patrons of the standards and rules and regulations that library employees follow to enforce the provisions of this section; and

(4) require such public library to inform its patrons that procedures for the submission of complaints about the standards and rules and regulations, the enforcement thereof, or observed patron behavior, have been adopted and are available for review.

(e) Any school district or public library that is in compliance with the provisions of this section shall not be liable for any damages arising out of or related to a minor gaining access to visual depictions that are child pornography, harmful to minors or obscene through the use of a computer that is owned or controlled by such school district or public library.

(f) As used in this section:

(1) "Board of education" means the board of education of any school district;

(2) "child pornography" means a visual depiction of a minor shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person;

(3) "harmful to minors" shall have the same meaning as that term is defined in K.S.A. 2012 Supp. 21-6402, and amendments thereto;

(4) "minor" means any person under 18 years of age;

(5) "obscene" shall have the same meaning as that term is defined in K.S.A. 2012

Supp. 21-6401, and amendments thereto;

(6) "public library" means any library established pursuant to article 12 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and any other library which serves the general public and is funded in whole or in part from moneys derived from tax levies;

(7) "school district" means any public school district organized under the laws of this state;

(8) "technology protection measure" means any computer technology or other process that blocks or filters online access to visual depictions; and

(9) "visual depiction" shall have the same meaning as that term is defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

(g) This act shall be known and may be cited as the Kansas children's internet protection act.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all following "ACT"; in line 2, by striking all before the period and inserting "creating the Kansas children's internet protection act";

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

STEVE E. ABRAMS
TOM ARPKE
ANTHONY HENSLEY
Conferees on part of Senate

WARD CASSIDY
AMANDA GROSSERODE
VALDENIA C. WINN
Conferees on part of House

On motion of Rep. Cassidy, the conference committee report on **HB 2109** was adopted.

On roll call, the vote was: Yeas 116; Nays 2; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Kuether, Lane.

Present but not voting: None.

Absent or not voting: Finch, Hill, Osterman, Peterson, Sawyer, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

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

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

On page 3, in line 20, by striking "January"; also in line 20, by striking "16, 2015" and inserting "December 31, 2014";

On page 29, in line 15, by striking ", except that the total KUSF distributions"; by striking all in lines 16 through 20; in line 21, by striking "majeure or natural disaster as determined by the commission"; in line 33, after "carrier" by inserting ", except that such limitation on KUSF support shall not preclude recovery of reductions in intrastate access revenue pursuant to subsection (c) of K.S.A. 66-2005, and amendments thereto"; following line 33, by inserting:

"(3) Notwithstanding any other provision of law, the total KUSF distributions made to all local exchange carriers operating under traditional rate of return regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, shall not exceed an annual $30,000,000 cap. A waiver of the cap shall be granted based on a demonstration by a carrier that such carrier would experience significant hardship due to force majeure or natural disaster as determined by the commission.";

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

PAT APPLE
FORREST J. KNOX
MARCI FRANCISCO
Conferees on part of Senate

JOE SEIWERT
RANDY GARBER
ANNIE KUETHER
Conferees on part of House

On motion of Rep. Seiwert, the conference committee report on **HB 2201** was adopted.

On roll call, the vote was: Yeas 99; Nays 20; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alcala, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Cassidy, Christmann, Claeys, Clayton, Corbet, Crum, Davis, DeGraaf, Dillmore, Doll, Dove, Edwards, Esau, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Highland, Hildabrand, Hill, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jones, Kahrs, Kelly, Kinzer, Kleeb, Lane, Lunn, Lusk, Macheers, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Todd, Vickrey, Victors,

Ward, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Alford, Bideau, Carpenter, Concannon, Dierks, Edmonds, Ewy, Hibbard, Hineman, Jennings, Johnson, Kelley, Kuether, Mast, Moxley, Read, Schwartz, Swanson, Trimmer, Waymaster.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Thimesch, Tietze.

EXPLANATION OF VOTE

MR. SPEAKER: I voted NO on **HB 2201**. My concern is the impact it will have on rural areas that have poor cell phone service.

The KUSF is the lifeline to land lines in rural areas and should be kept intact until technology of wireless service improves. – LARRY HIBBARD

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2319** submits the following report:

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

On page 3, in line 5, after "education" by inserting ", the open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto, and the open records act as provided in K.S.A. 45-215 et seq., and amendments thereto";

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

STEVE E. ABRAMS
TOM ARPKE
ANTHONY HENSLEY
Conferees on part of Senate

KASHA KELLEY
WARD CASSIDY
ED TRIMMER
Conferees on part of House

On motion of Rep. Kelley, the conference committee report on **HB 2319** was adopted.

On roll call, the vote was: Yeas 71; Nays 47; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alford, Barker, Becker, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Carlson, Carpenter, Cassidy, Claeys, Concannon, Corbet, Crum, DeGraaf, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Grosserode, Hawkins, Hedke, Highland, Hildabrand, Hoffman, Houser, Howell, Huebert, Hutton, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, O'Brien, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwartz, Seiwert, Shultz, Siegfreid, Suellentrop, Sutton, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Bideau, Bollier, Bridges, Burroughs, Campbell, Carlin,

Christmann, Clayton, Davis, Dierks, Dillmore, Doll, Finney, Frownfelter, Gonzalez, Grant, Henderson, Henry, Hermanson, Hibbard, Hill, Hineman, Houston, Jennings, Kuether, Lane, Lusk, Meier, Menghini, Moxley, Pauls, Perry, Rooker, Ruiz, Sloan, Sloop, Swanson, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Schwab, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2363** 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 7, by inserting:

"New Section 1. (a) Subject to existing water rights and the principle of beneficial use, the chief engineer may grant, upon application made therefor, limited transfer permits to authorize the use of up to 4,000,000 gallons from an existing water right. The term of such limited transfer permit will be limited to a single calendar year. Each application submitted for a limited transfer permit shall be on a form prescribed by the chief engineer and accompanied by an application fee of $200.

(b) (1) If the base water right is groundwater, the use of water can be transferred to another well within the same source of supply within two miles.

(2) If the base water right is surface water, the use can be transferred to another surface water use within the same surface water system.

(c) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section. Such rules and regulations shall require that there is no increase in consumptive use enabled by the transfer permit, prescribe necessary recordkeeping and reporting requirements, prevent impairment of existing rights and address any other matter deemed necessary by the chief engineer to protect the public interest.

(d) Nothing in this section shall be deemed to vest in the holder of any permit granted pursuant to provisions of this section any permanent right to appropriate water except as is provided by such permit.

(e) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

(f) This section shall be part of and supplemental to the Kansas water appropriation act.";

On page 9, in line 1, by striking "obstructions" and inserting "debris"; in line 4, by striking "scalp or extract"; in line 5, by striking "streambeds" and inserting "change or diminish the course, current or cross section of any stream"; following line 33, by inserting:

"Sec. 9. K.S.A. 2012 Supp. 82a-1901 is hereby amended to read as follows: 82a-1901. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711, 82a-718 and 82a-1038 and K.S.A. 2012 Supp. 82a-1041, and amendments thereto,

and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject to review in accordance with the provisions of the Kansas administrative procedure act.

Such review shall be conducted by the secretary of agriculture or a presiding officer from the office of administrative hearings within the department of administration. The secretary of agriculture shall not have the authority otherwise to designate a presiding officer to conduct such review unless at the party's request pursuant to K.S.A. 75-37,121, and amendments thereto.

(b) The order of the secretary of agriculture or the administrative law judge or presiding officer upon review pursuant to subsection (a) shall be a final order under the Kansas administrative procedure act. Such order shall not be subject to reconsideration pursuant to K.S.A. 77-529, and amendments thereto, and shall be subject to review in accordance with the Kansas judicial review act.

(c) This act shall not affect any administrative proceeding pending before the chief engineer of the division of water resources of the department of agriculture, the secretary of agriculture or any administrative hearing officer on July 1, 1999, and such matter shall proceed as though no change in the law had been made with regard to such proceeding.";

And by redesignating sections accordingly;

Also on page 9, in line 34, by striking all after "K.S.A."; in line 35, by striking all before "are" and inserting "24-105, 24-107, 82a-307, 82a-312, 82a-313 and 82a-314 and K.S.A. 2012 Supp. 24-106, 74-509, 82a-301, 82a-302, 82a-303b, 82a-307a, 82a-326, 82a-326a, 82-734, 82a-735 and 82a-1901";

On page 1, in the title, in line 4, by striking the first "and" and inserting a comma; also in line 4, after "82a-734" by inserting "and 82a-1901"; in line 5, after "sections" by inserting "; also repealing K.S.A. 24-105, 24-107, 82a-312, 82a-313 and 82a-314 and K.S.A. 2012 Supp. 24-106, 74-509, 82a-307a, 82a-326a and 82a-735";

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

LARRY R. POWELL
DAN KERSCHEN
MARCI FRANCISCO
Conferees on part of Senate

SHARON SCHWARTZ
KYLE HOFFMAN
J. PONKA-WE VICTORS
Conferees on part of House

On motion of Rep. Schwartz, the conference committee report on **HB 2363** was adopted.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke,

Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2234** 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.

TY MASTERSON
JIM DENNING
LAURA KELLY
Conferees on part of Senate

RICHARD J. PROEHL
RONALD RYCKMAN, SR.
EMILY PERRY
Conferees on part of House

On motion of Rep. Proehl the conference committee report on **HB 2234** to agree to disagree, was adopted.

Speaker pro tem Mast thereupon appointed Reps. Proehl, Ryckman, Sr. and Perry as second conferees on the part of the House.

MESSAGE FROM THE SENATE

The Senate adopts the Conference Committee report on **Sub SB 57.**

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

The Senate adopts the Conference Committee report on **SB 164.**

The Senate adopts the Conference Committee report on **SB 168.**

The Senate adopts the Conference Committee report on **HB 2164.**

The Senate adopts the Conference Committee report on **S Sub HB 2199.**

The Senate adopts the Conference Committee report to agree to disagree on **SB 171**, and has appointed Senators Abrams, Arpke and Smith as second conferees on the part of the Senate.

On motion of Rep. Vickrey, the House recessed until 2:30 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Johnson moved that the House reconsider its action in not adopting the Conference Committee Report on **HB 2107** and a new conference committee be appointed.

The motion prevailed.

The question reverted back to the substitute motion of Rep. Ward to not adopt the conference committee report and that a new conference committee be appointed. The motion did not prevail.

The question then reverted back to the original motion of Rep. Hermanson to adopt the conference committee report (see pages 677-683 in this Journal).

Rep. Pauls offered a motion to allow non-carriers of the bill consent to speak more than twice. The motion did not prevail.

On motion of Rep. Hermanson, the conference committee report on **HB 2107** was adopted.

On roll call, the vote was: Yeas 69; Nays 50; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alcala, Barker, Becker, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Claeys, Corbet, Crum, DeGraaf, Doll, Dove, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Grosserode, Hawkins, Hedke, Hermanson, Highland, Hildabrand, Hoffman, Houser, Howell, Huebert, Hutton, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lane, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, O'Brien, Peck, Petty, Powell, Proehl, Read, Rhoades, Rothlisberg, Ryckman Jr., Ryckman Sr., Schwab, Schwartz, Seiwert, Shultz, Suellentrop, Sutton, Todd, Vickrey, Weber.

Nays: Alford, Ballard, Bideau, Bollier, Bridges, Burroughs, Carlin, Christmann, Clayton, Concannon, Davis, Dierks, Dillmore, Edmonds, Finney, Frownfelter, Gonzalez, Grant, Henderson, Henry, Hibbard, Hill, Hineman, Houston, Jennings, Kuether, Lusk, Meier, Menghini, Moxley, Pauls, Perry, Phillips, Rooker, Rubin, Ruiz, Schroeder, Siegfreid, Sloan, Sloop, Swanson, Trimmer, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Thimesch, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2034** 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 HB 2034, as follows:

On page 1, by striking all in lines 6 and 7 and inserting:

"New Section 1. The attorney general, in consultation with other appropriate state

agencies, is authorized to coordinate training regarding human trafficking for law enforcement agencies throughout Kansas.

New Sec. 2. (a) The human trafficking advisory board established by the attorney general is hereby designated the official human trafficking advisory board for the state of Kansas.

(b) The board shall include representatives from:

(1) The office of the governor;

(2) the attorney general's office;

(3) the department of labor;

(4) the department for children and families;

(5) the department of health and environment;

(6) the juvenile justice authority;

(7) the Kansas association of chiefs of police;

(8) the Kansas sheriffs' association;

(9) the highway patrol;

(10) the Kansas bureau of investigation;

(11) local law enforcement agencies;

(12) the legislature;

(13) nongovernmental organizations focused on human trafficking issues, organizations representing diverse communities disproportionately affected by human trafficking and organizations focused on child services and runaway services;

(14) academic researchers who are dedicated to the subject of human trafficking;

(15) any other federal, state, or local government entity deemed necessary by the attorney general; and

(16) any other private sector or nongovernmental organization deemed necessary by the attorney general.

New Sec. 3. There is hereby established in the state treasury the human trafficking victim assistance fund. All moneys credited to such fund shall be used to pay for the training authorized by section 1, and amendments thereto, and to support care, treatment and other services for victims of human trafficking and commercial sexual exploitation of a child. All expenditures from such 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 attorney general or the attorney general's designee.

New Sec. 4. (a) Commercial sexual exploitation of a child is knowingly:

(1) Giving, receiving, offering or agreeing to give, or offering or agreeing to receive anything of value to perform any of the following acts:

(A) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another; or

(B) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining a patron where there is an exchange of value, for any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the patron, the offender or another;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger

than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof;

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age; or

(4) procuring transportation for, paying for the transportation of or transporting any person younger than 18 years of age within this state with the intent of causing, assisting or promoting that person's engaging in selling sexual relations.

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level 5, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than $2,500 nor more than $5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or subsection (b)(2) shall be fined not less than $5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by section 3, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational and treatment program regarding commercial sexual exploitation of a child.

(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) Subsection (c) of K.S.A. 2012 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) subsection (c) of K.S.A. 2012 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

(d) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 5. (a) Whenever a child is in custody, as defined in K.S.A. 2012 Supp. 38-2202, and amendments thereto, and such child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, the court shall refer the child to the secretary of the department for children and families for an assessment to determine safety, placement and treatment

needs for the child. The secretary shall use a research-based assessment tool to assess such needs and shall make appropriate recommendations to the court.

(b) When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. The secretary of the department for children and families shall use a rapid response team to begin such assessment for appropriate and timely placement.

(c) This section shall be part of and supplemental to the revised Kansas code for care of children.

(d) This section shall take effect on and after January 1, 2014.

New Sec. 6. (a) A staff secure facility shall:

(1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;

(2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;

(3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;

(4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;

(5) implement written policies and procedures for the screening and searching of both residents and visitors;

(6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and

(7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(b) A staff secure facility shall provide the following services to children placed in such facility:

(1) Case management;

(2) life skills training;

(3) health care;

(4) mental health counseling;

(5) substance abuse screening and treatment; and

(6) any other appropriate services.

(c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.

(d) The person responsible for 24-hour-a-day staff observation of all facility entrances and exits shall be a retired or off-duty law enforcement officer.

(1) As used in this subsection, "retired law enforcement officer" means any former member of any duly organized federal, state, county or municipal law enforcement organization who by virtue of office or public employment was vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extended to all crimes or was limited to specific crimes.

(2) As used in this subsection, "off-duty law enforcement officer" means any off-

duty member of any duly organized federal, state, county or municipal law enforcement organization who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.

(f) The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.

(g) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 7. (a) A notice offering help to victims of human trafficking shall be accessible on the official website of the attorney general, the official website of the department for children and families and the official website of the department of labor, and may be posted in a prominent and accessible location in workplaces.

(b) The notice shall provide such information as the attorney general determines appropriate to help and support victims of human trafficking, including, but not limited to, information regarding the national human trafficking resource center (NHTRC) hotline as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave — whether it is commercial sex, housework, farm work or any other activity — call the toll-free National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. The toll-free hotline is:

• Available 24 hours a day, 7 days a week
• Operated by a nonprofit, nongovernmental organization
• Anonymous and confidential
• Accessible in 170 languages
• Able to provide help, referral to services, training, and general information."

(c) The notice described in this section shall be made available in English, Spanish, and, if requested by an employer, another language.

(d) The secretary of labor, in consultation with the attorney general, shall develop and implement an education plan to raise awareness among Kansas employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. On or before February 1, 2014, the secretary shall report to the standing committees on judiciary in the senate and the house of representatives, respectively, on the progress achieved in developing and implementing the notice requirement and education plan required by this section.

Sec. 8. K.S.A. 2012 Supp. 12-4106 is hereby amended to read as follows: 12-4106. (a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge, and may fine or imprison for contempt in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine all cases properly brought before such municipal judge to: Grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in

which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.

(c) The municipal judge shall maintain a docket in which every cause commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for class A and B misdemeanors under Kansas criminal statutes is forwarded to the Kansas bureau of investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within 30 days of final disposition.

(f) In all cases alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, the municipal court judge shall ensure that the municipal court reports the filing and disposition of such case to the Kansas bureau of investigation central repository, and, on and after July 1, 2013, reports the filing and disposition of such case electronically to the Kansas bureau of investigation central repository.

(g) In all cases in which a fine is imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025 or 21-6421, and amendments thereto, the municipal court judge shall ensure that the municipal court remits the appropriate amount of such fine to the state treasurer as provided in K.S.A. 2012 Supp. 12-4120, and amendments thereto.

Sec. 9. K.S.A. 2012 Supp. 12-4120 is hereby amended to read as follows: 12-4120. (a) On and after July 1, 2012, the amount of $250 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2012 Supp. 75-52,113, and amendments thereto.

(b) On and after July 1, 2013, the amount of $2,500 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2012 Supp. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by section 3, and amendments thereto.

Sec. 10. K.S.A. 2012 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in ~~subsection (b), (c) and (d)~~ subsections (b), (c), (d) and (e), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and

related arrest records if three or more years have elapsed since the person:

(A) Satisfied the sentence imposed; or

(B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in ~~subsection (b), (c) and (d)~~ subsections (b), (c), (d) and (e), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, "coercion" means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

~~(b)~~ (c) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(4) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto;

(7) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

~~(c)~~ (d) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 8-1567, and amendments thereto.

~~(d)~~ (e) There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of K.S.A. 8-2,144, and amendments thereto.

~~(e)~~ (f) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state the:

~~(1)~~ (A) ~~The~~ Defendant's full name;

~~(2)~~ (B) ~~the~~ full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

~~(3)~~ (C) ~~the~~ defendant's sex, race and date of birth;

~~(4)~~ (D) ~~the~~ crime for which the defendant was arrested, convicted or diverted;

~~(5)~~ (E) ~~the~~ date of the defendant's arrest, conviction or diversion; and

~~(6)~~ (F) ~~the~~ identity of the convicting court, arresting law enforcement agency or diverting authority.

(2) A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section.

(3) Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

~~(f)~~ (g) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

~~(g)~~ (h) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social and rehabilitation services~~ for children and families;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer, as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the arrest, conviction or diversion is to be disclosed; and

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.

~~(h)~~ (i) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

~~(i)~~ (j) Subject to the disclosures required pursuant to subsection (g), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.

~~(j)~~ (k) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records,

except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of ~~social and rehabilitation services~~ the department for children and families, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social and rehabilitation services~~ for children and families of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(12) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by

the person whose record has been expunged;

(13) the attorney general, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act;

(14) the Kansas sentencing commission;

(15) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

(16) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 11. K.S.A. 2012 Supp. 21-5301 is hereby amended to read as follows: 21-5301. (a) An attempt is any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime.

(b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the crime was not possible.

(c) (1) An attempt to commit an off-grid felony shall be ranked at nondrug severity level 1. An attempt to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for an attempt to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit the crime of:

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2012 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age; or

(H) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the offender is 18 years of age or older

and the child is less than 14 years of age.

(d) (1) An attempt to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit a violation of K.S.A. 2012 Supp. 21-5703, and amendments thereto.

(e) An attempt to commit a class A person misdemeanor is a class B person misdemeanor. An attempt to commit a class A nonperson misdemeanor is a class B nonperson misdemeanor.

(f) An attempt to commit a class B or C misdemeanor is a class C misdemeanor.

Sec. 12. K.S.A. 2012 Supp. 21-5302 is hereby amended to read as follows: 21-5302. (a) A conspiracy is an agreement with another person to commit a crime or to assist in committing a crime. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.

(b) It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.

(c) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.

(d) (1) Conspiracy to commit an off-grid felony shall be ranked at nondrug severity level 2. Conspiracy to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for conspiracy to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of conspiracy to commit the crime of:

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2012 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4,

and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age; or

(H) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.

(e) Conspiracy to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

Sec. 13. K.S.A. 2012 Supp. 21-5303 is hereby amended to read as follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or requesting another person to commit a felony, attempt to commit a felony or aid and abet in the commission or attempted commission of a felony for the purpose of promoting or facilitating the felony.

(b) It is immaterial under subsection (a) that the actor fails to communicate with the person solicited to commit a felony if the person's conduct was designed to effect a communication.

(c) It is an affirmative defense that the actor, after soliciting another person to commit a felony, persuaded that person not to do so or otherwise prevented the commission of the felony, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purposes.

(d) (1) Criminal solicitation to commit an off-grid felony shall be ranked at nondrug severity level 3. Criminal solicitation to commit any other nondrug felony shall be ranked on the nondrug scale at three severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for criminal solicitation to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of criminal solicitation to commit the crime of:

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2012 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age; or

(H) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.

(e) Criminal solicitation to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

Sec. 14. K.S.A. 2012 Supp. 21-5401 is hereby amended to read as follows: 21-5401. (a) Capital murder is the:

(1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person for ransom;

(2) intentional and premeditated killing of any person pursuant to a contract or agreement to kill such person or being a party to the contract or agreement pursuant to which such person is killed;

(3) intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail;

(4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto, criminal sodomy, as defined in subsections (a)(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, or any attempt thereof, as defined in K.S.A. 2012 Supp. 21-5301, and amendments thereto;

(5) intentional and premeditated killing of a law enforcement officer;

(6) intentional and premeditated killing of more than one person as a part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or

(7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or with the child or with intent that the child commit or submit to a sex offense.

(b) For purposes of this section, "sex offense" means rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto, aggravated indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, ~~prostitution~~ selling sexual relations, as defined in K.S.A. 2012 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ the sale of sexual relations, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, or sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

(c) Capital murder is an off-grid person felony.

Sec. 15. K.S.A. 2012 Supp. 21-5502 is hereby amended to read as follows: 21-5502. (a) The provisions of this section shall apply only in a prosecution for:

(1) Rape, as defined ~~by~~ in K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(4) criminal sodomy, as defined in subsections (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(6) aggravated indecent solicitation of a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(8) aggravated sexual battery, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(9) incest, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(10) aggravated incest, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(11) indecent solicitation of a child, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(12) aggravated assault, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5412, and amendments thereto, with intent to commit any crime specified above;

(13) sexual battery, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(14) unlawful voluntary sexual relations, as defined in K.S.A. 2012 Supp. 21-5507, and amendments thereto;

(15) aggravated human trafficking, as defined in subsections ~~(b)(1)(B) and~~ (b)(2) and (b)(4) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(16) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto;

~~(16)~~ (17) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509, and amendments thereto; or

~~(17)~~ (18) attempt, as defined in K.S.A. 2012 Supp. 21-5301, and amendments thereto, or conspiracy, as defined in K.S.A. 2012 Supp. 21-5302, and amendments thereto, to commit any crime specified above.

(b) Except as provided in subsection (c), in any prosecution to which this section applies, evidence of the complaining witness' previous sexual conduct with any person including the defendant shall not be admissible, and no reference shall be made thereto in any proceeding before the court, except under the following conditions: The defendant shall make a written motion to the court to admit evidence or testimony concerning the previous sexual conduct of the complaining witness. The motion shall be made at least seven days before the commencement of the proceeding unless that requirement is waived by the court. The motion shall state the nature of such evidence

or testimony and its relevancy and shall be accompanied by an affidavit in which an offer of proof of the previous sexual conduct of the complaining witness is stated. The motion, affidavits and any supporting or responding documents of the motion shall not be made available for examination without a written order of the court except that such motion, affidavits and supporting and responding documents or testimony when requested shall be made available to the defendant or the defendant's counsel and to the prosecutor. The defendant, defendant's counsel and prosecutor shall be prohibited from disclosing any matters relating to the motion, affidavits and any supporting or responding documents of the motion. The court shall conduct a hearing on the motion in camera. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the previous sexual conduct of the complaining witness is relevant and is not otherwise inadmissible as evidence, the court may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence and question witnesses in accordance with the order of the court.

(c) In any prosecution for a crime designated in subsection (a), the prosecutor may introduce evidence concerning any previous sexual conduct of the complaining witness, and the complaining witness may testify as to any such previous sexual conduct. If such evidence or testimony is introduced, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence or testimony introduced by the prosecutor or given by the complaining witness.

(d) As used in this section, "complaining witness" means the alleged victim of any crime designated in subsection (a), the prosecution of which is subject to this section.

Sec. 16. K.S.A. 2012 Supp. 21-6419 is hereby amended to read as follows: 21-6419. (a) ~~Prostitution~~ Selling sexual relations is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:

(1) Sexual intercourse;

(2) sodomy; or

(3) manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.

(b) ~~Prostitution~~ Selling sexual relations is a class B nonperson misdemeanor.

(c) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto.

Sec. 17. K.S.A. 2012 Supp. 21-6420 is hereby amended to read as follows: 21-6420. (a) Promoting ~~prostitution~~ the sale of sexual relations is knowingly:

(1) Establishing, owning, maintaining or managing ~~a house of prostitution~~ any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older, or participating in the establishment, ownership, maintenance or management thereof;

(2) permitting any ~~place~~ property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a ~~house of prostitution~~ place where sexual relations are being sold or offered for sale by a person who is 18 years of age or

older;

(3) procuring a ~~prostitute for a house of prostitution~~ person selling sexual relations who is 18 years of age or older for a place where sexual relations are being sold or offered for sale;

(4) inducing another ~~to become a prostitute~~ who is 18 years of age or older to become a person who sells sexual relations;

(5) soliciting a patron for ~~a prostitute or for a house of prostitution~~ a person 18 years of age or older who is selling sexual relations or for a place where sexual relations are being sold or offered for sale;

(6) procuring a ~~prostitute~~ person 18 years of age or older who is selling sexual relations for a patron;

(7) procuring transportation for, paying for the transportation of, or transporting a person 18 years of age or older within this state with the intention of assisting or promoting that person's engaging in ~~prostitution~~ the sale of sexual relations; or

(8) being employed to perform any act which is prohibited by this section.

(b) (1) Promoting ~~prostitution~~ the sale of sexual relations is a:

(A) ~~Class A person misdemeanor when the prostitute is 16 or more years of age~~ Severity level 9, person felony, except as provided in subsection (b)(1)(B); and

(B) severity level 7, person felony when ~~the prostitute is 16 or more years of age and~~ committed by a person who has, prior to the commission of the crime, been convicted of ~~promoting prostitution~~ a violation of this section, or any prior version of this section ~~; and~~

~~(C) severity level 6, person felony when the prostitute is under 16 years of age, except as provided in subsection (b)(2).~~

~~(b) (2) Promoting prostitution or attempt, conspiracy or criminal solicitation to commit promoting prostitution is an off-grid person felony when the offender is 18 years of age or older and the prostitute is less than 14 years of age.~~

~~(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:~~

~~(1) Subsection (c) of K.S.A. 2012 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of promoting prostitution as described in subsection (b)(2);~~

~~(2) subsection (c) of K.S.A. 2012 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of promoting prostitution as described in subsection (b)(2); and~~

~~(3) subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of promoting prostitution as described in subsection (b)(2).~~

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than $2,500 nor more than $5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than $5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by section 3, and amendments thereto.

Sec. 18. K.S.A. 2012 Supp. 21-6421 is hereby amended to read as follows: 21-6421. (a) ~~Patronizing a prostitute~~ Buying sexual relations is knowingly:

(1) Entering or remaining in a ~~house of prostitution~~ place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact

stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a ~~prostitute~~ person selling sexual relations who is 18 years of age or older; or

(2) hiring a ~~prostitute~~ person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

~~(b) Patronizing a prostitute is a class C misdemeanor~~

(b) (1) Buying sexual relations is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined $2,500. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than $5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by section 3, and amendments thereto.

(3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational and treatment program regarding commercial sexual exploitation.

(c) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

Sec. 19. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d) ~~and~~, (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d) ~~and~~, (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2012 Supp. 21-6419, and amendments

thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, "coercion" means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

~~(b)~~ (c) Except as provided in subsections ~~(c), (d) and~~ (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed~~;~~ or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(4) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

~~(c)~~ (d) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed~~;~~ or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if

such person was convicted of a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

~~(d)~~ (e) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(7) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(8) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp. 21-5601, and amendments thereto;

(9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2012 Supp. 21-5602, and amendments thereto;

(10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

(11) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

(12) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

(13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

(14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

(15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(17) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(18) any conviction for any offense in effect at any time prior to July 1, 2011, that is comparable to any offense as provided in this subsection.

~~(e)~~ (f) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901

et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

~~(f)~~ (g) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(C) defendant's sex, race and date of birth;

(D) crime for which the defendant was arrested, convicted or diverted;

(E) date of the defendant's arrest, conviction or diversion; and

(F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of $100. On and after April 12, 2012, through June 30, 2013, the supreme court may impose a charge, not to exceed $19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

~~(g)~~ (h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

~~(h)~~ (i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2012 Supp. 75-7b21, and

amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social and rehabilitation services~~ for children and families;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

~~(i)~~ (j) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a

community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

~~(j)~~ (k) Subject to the disclosures required pursuant to subsection ~~(h)~~ (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

~~(k)~~ (l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of ~~social and rehabilitation services~~ the department for children and families, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social and rehabilitation services~~ for children and families of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure,

renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act; or

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

~~(l)~~ (m) The provisions of subsection ~~(k)(17)~~ (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 20. K.S.A. 2012 Supp. 21-6626 is hereby amended to read as follows: 21-6626. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution,

that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) "Aggravated habitual sex offender" means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in subsection (c)(2)(A) through ~~(c)(2)(H) or~~ (c)(2)(J) or (c)(2)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted of two or more sexually violent crimes;

(2) "Sexually violent crime" means:

(A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(E) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(H) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(J) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto;

~~(I)~~ (K) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

~~(J)~~ (L) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section; or

~~(K)~~ (M) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

Sec. 21. K.S.A. 2012 Supp. 21-6627 is hereby amended to read as follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of

age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in subsection (a)(2):

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(D) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(E) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the victim is less than 14 years of age;

(F) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the child is less than 14 years of age; and

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(F).

(2) The provision of subsection (a)(1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2012 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to July 1, 2011, which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A. 2012 Supp. 21-5507, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2012 Supp. 21-5507, and amendments thereto.

(2) The provision of subsection (b)(1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2012 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is

subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 480 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits.

(d) (1) On or after July 1, 2006, for a first time conviction of an offense listed in subsection (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and, subject to the provisions of K.S.A. 2012 Supp. 21-6818, and amendments thereto, no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder.

(2) As used in this subsection, "mitigating circumstances" shall include, but are not limited to, the following:

(A) The defendant has no significant history of prior criminal activity;

(B) the crime was committed while the defendant was under the influence of extreme mental or emotional disturbances;

(C) the victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor;

(D) the defendant acted under extreme distress or under the substantial domination of another person;

(E) the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired; and

(F) the age of the defendant at the time of the crime.

(e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, shall not apply to any defendant sentenced pursuant to this section.

Sec. 22. K.S.A. 2012 Supp. 21-6806 is hereby amended to read as follows: 21-6806. (a) Sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of the primary sentence for good time as authorized by K.S.A. 2012 Supp. 21-6821, and amendments thereto.

(b) The sentencing court shall pronounce sentence in all felony cases.

(c) Violations of K.S.A. 2012 Supp. 21-5401, 21-5402, 21-5421, 21-5422 and 21-5901, and amendments thereto, are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A. 2012 Supp. 21-6617, 21-6618, 21-6619, 21-

6622, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto, the sentence shall be imprisonment for life and shall not be subject to statutory provisions for suspended sentence, community service or probation.

(d) As identified in K.S.A. 2012 Supp. 21-5426, 21-5503, 21-5504, 21-5506, 21-5510 and ~~21-6420~~ section 4, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in K.S.A. 2012 Supp. 21-6626, and amendments thereto, the sentence shall be imprisonment for life pursuant to K.S.A. 2012 Supp. 21-6627, and amendments thereto.

Sec. 23. K.S.A. 2012 Supp. 21-6815 is hereby amended to read as follows: 21-6815. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of subsection (b) of K.S.A. 2012 Supp. 21-6817, and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(2) Subject to the provisions of subsection (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color,

religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

(i) Commit any person felony;

(ii) assist in avoiding detection or apprehension for commission of any person felony; or

(iii) attempt, conspire or solicit, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization; ~~or~~

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age~~.~~;

(d) aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age; or

(e) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the victim is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

(1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;

(2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;

(3) the nature and extent of the defendant's assistance;

(4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and

(5) the timeliness of the defendant's assistance.

Sec. 24. K.S.A. 2012 Supp. 22-2515 is hereby amended to read as follows: 22-2515. (a) An ex parte order authorizing the interception of a wire, oral or electronic communication may be issued by a judge of competent jurisdiction. The attorney general, district attorney or county attorney may make an application to any judge of competent jurisdiction for an order authorizing the interception of a wire, oral or electronic communication by an investigative or law enforcement officer and agency having responsibility for the investigation of the offense regarding which the application is made, when such interception may provide evidence of the commission of any of the following offenses:

(1) Any crime directly and immediately affecting the safety of a human life which is a felony;

(2) murder;

(3) kidnapping;

(4) treason;

(5) sedition;

(6) racketeering;

(7) commercial bribery;

(8) robbery;

(9) theft, if the offense would constitute a felony;

(10) bribery;

(11) any felony violation of K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto;
(12) commercial gambling;
(13) sports bribery;
(14) tampering with a sports contest;
(15) aggravated escape;
(16) aggravated failure to appear;
(17) arson;
(18) terrorism;
(19) illegal use of weapons of mass destruction; ~~or~~
(20) human trafficking or aggravated human trafficking;
(21) sexual exploitation of a child;
(22) commercial sexual exploitation of a child;
(23) buying sexual relations, promoting the sale of sexual relations or selling sexual relations; or
~~(20)~~ (24) any conspiracy to commit any of the foregoing offenses.

(b) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(c) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of such officer's official duties.

(d) Any person who has received, by any means authorized by this act or by chapter 119 of title 18 of the United States code or by a like statute of any other state, any information concerning a wire, oral or electronic communication, or evidence derived therefrom, intercepted in accordance with the provisions of this act, may disclose the contents of such communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court, or before any grand jury, of this state or of the United States or of any other state.

(e) No otherwise privileged wire, oral or electronic communication intercepted in accordance with, or in violation of, the provisions of this act or of chapter 119 of title 18 of the United States code shall lose its privileged character.

(f) When an investigative or law enforcement officer, while engaged in intercepting wire, oral or electronic communications in the manner authorized by this act, intercepts wire, oral or electronic communications relating to offenses other than those specified in the order authorizing the interception of the wire, oral or electronic communication, the contents thereof and evidence derived therefrom may be disclosed or used as provided in subsections (b) and (c) of this section. Such contents and evidence derived therefrom may be used under subsection (d) of this section when authorized or approved by a judge of competent jurisdiction, where such judge finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this act, or with chapter 119 of title 18 of the United

States code.

Sec. 25. K.S.A. 22-2530 is hereby amended to read as follows: 22-2530. If a search warrant is executed which authorizes a search of real property based upon an alleged offense involving gambling, obscenity, ~~prostitution~~ the sale of sexual relations, controlled substances or liquor, a copy of the warrant shall be delivered to the last known address of the owner of the property within two business days, excluding Saturdays, Sundays and legal holidays, after execution of the warrant if such address is different from the address of the property for which the warrant was issued.

Sec. 26. K.S.A. 2012 Supp. 22-3601 is hereby amended to read as follows: 22-3601. (a) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken to the court of appeals, except in those cases reviewable by law in the district court or in which a direct appeal to the supreme court is required. Whenever an interlocutory appeal is permitted in a criminal case in the district court, such appeal shall be taken to the court of appeals.

(b) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken directly to the supreme court in the following cases:

(1) Any case in which a statute of this state or of the United States has been held unconstitutional;

(2) any case in which the defendant has been convicted of a class A felony;

(3) any case in which a maximum sentence of life imprisonment has been imposed, unless the maximum sentence has been imposed pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments thereto; and

(4) except as provided further, any case in which the crime was committed on or after July 1, 1993, and the defendant has been convicted of an off-grid crime. The provisions of this paragraph shall not apply to any case in which the off-grid crime was:

(A) Aggravated human trafficking, subsection (c)(2)(B) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(B) rape, subsection (b)(2)(B) of K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(D) aggravated indecent liberties with a child, subsection (c)(2)(C)(ii) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(E) sexual exploitation of a child, subsection (b)(2)(B) of K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(F) ~~promoting prostitution, subsection (b)(4) of K.S.A. 2012 Supp. 21-6420, and amendments thereto~~ commercial sexual exploitation of a child, subsection (b)(2) of section 4, and amendments thereto; or

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-3503, and amendments thereto, of any such felony.

Sec. 27. K.S.A. 2012 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638, prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642, prior to its repeal; K.S.A. 2012 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012 Supp. 21-6707, and

amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 2012 Supp. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 2012 Supp. 21-6820, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2012 Supp. 21-6813, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2012 Supp. 21-6817, and amendments thereto.

(vi) Upon petition, the prisoner review board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and

completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto; ~~or~~

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if committed

in whole or in part for the purpose of the sexual gratification of the defendant or another;

(L) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto; or

~~(K)~~ (M) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

(3) As used in this subsection, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner review board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental

condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search or seizure by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search or seizure by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(l) The prisoner review board shall promulgate rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable;

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services;

(6) shall order that the parolee or person on postrelease supervision agree in writing to be subject to search or seizure by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment; and

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to search or seizure by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to May 25, 2000, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity levels 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity levels 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an

inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to subsection (r) of K.S.A. 2012 Supp. 21-6604, and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) (1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

(A) As used in this subsection, "pornographic materials" means: Any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

(B) As used in this subsection, all other terms have the meanings provided by K.S.A. 2012 Supp. 21-5510, and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. 22-4902, and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

Sec. 28. K.S.A. 2012 Supp. 22-3901 is hereby amended to read as follows: 22-3901. The following unlawful activities and the use of real or personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

(a) Commercial gambling;

(b) dealing in gambling devices;

(c) possession of gambling devices;

(d) promoting obscenity;

(e) promoting ~~prostitution~~ the sale of sexual relations;

(f) ~~habitually promoting prostitution~~ commercial sexual exploitation of a child;

(g) violations of any law regulating controlled substances;

(h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated, and amendments thereto;

(i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto;

(j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, "criminal street gang" means any organization, association or group, whether formal or informal:

(1) Consisting of three or more persons;

(2) having as one of its primary activities the commission of one or more person

felonies, person misdemeanors, felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;

(3) which has a common name or common identifying sign or symbol; and

(4) whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, person misdemeanors, felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors, or any substantially similar offense from another jurisdiction; or

(k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of K.S.A. 2012 Supp. 31-170, and amendments thereto.

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

Sec. 29. K.S.A. 2012 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless the context otherwise requires:

(a) "Offender" means:

(1) A sex offender;

(2) a violent offender;

(3) a drug offender;

(4) any person who has been required to register under out of state law or is otherwise required to be registered; and

(5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.

(b) "Sex offender" includes any person who:

(1) On or after April 14, 1994, is convicted of any sexually violent crime;

(2) On or after April 14, 1994, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(3) has been determined to be a sexually violent predator;

(4) on or after May 29, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:

(A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2012 Supp. 21-5511, and amendments thereto;

(B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its

repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto~~ prior to its amendment by this act on July 1, 2013;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto~~ prior to its amendment by this act on July 1, 2013; or

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto;

(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(6) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or

(7) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection.

(c) "Sexually violent crime" means:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments thereto;

(11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto, committed on or after April 17, 2008;

(12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal,

or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(14) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto;

~~(13)~~ (15) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;

~~(14)~~ (16) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

~~(15)~~ (17) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(e) "Violent offender" includes any person who:

(1) On or after May 29, 1997, is convicted of any of the following crimes:

(A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

(B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

(C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

(D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

(F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person

felony;

(3) has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(f) "Drug offender" means any person who has been convicted of:

(1) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto;

(2) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined in subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

(3) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 2012 Supp. 21-5705, and amendments thereto. The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred on or after July 1, 2009, through April 15, 2010;

(4) an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(5) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out of state court shall constitute a conviction or adjudication for purposes of this section.

(h) "School" means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(i) "Employment" means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(j) "Reside" means to stay, sleep or maintain with regularity or temporarily one's person and property in a particular place other than a location where the offender is

incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for three or more consecutive days or parts of days, or for ten or more non-consecutive days in a period of 30 consecutive days.

(k) "Residence" means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.

(l) "Transient" means having no fixed or identifiable residence.

(m) "Law enforcement agency having initial jurisdiction" means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender's discharge, parole or release.

(n) "Registering law enforcement agency" means the sheriff's office or tribal police department responsible for registering an offender.

(o) "Registering entity" means any person, agency or other governmental unit, correctional facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. "Registering entity" shall include, but not be limited to, sheriff's offices, tribal police departments and correctional facilities.

(p) "Treatment facility" means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counseling, but does not include a hospital, as defined in K.S.A. 65-425, and amendments thereto.

(q) "Correctional facility" means any public or private correctional facility, juvenile detention facility, prison or jail.

(r) "Out of state" means: the District of Columbia; any federal, military or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.

(s) "Duration of registration" means the length of time during which an offender is required to register for a specified offense or violation.

Sec. 30. K.S.A. 2012 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto~~ prior to its amendment by this act on July 1, 2013, when one of the parties involved is less than 18 years of age;

(D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

(E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

(F) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

(G) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

(H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

(I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

(J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(K) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(L) conviction of any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;

(M) conviction of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(N) unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto;

(O) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

(P) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 2012 Supp. 21-5705, and amendments thereto; or

(Q) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5504, and amendments

thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto~~ prior to its amendment by this act on July 1, 2013, if the ~~prostitute~~ person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal,

or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto~~ prior to its amendment by this act on July 1, 2013, if the ~~prostitute~~ person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto; ~~or~~

(11) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto; or

~~(11)~~ (12) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from

confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

(i) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in subsection (a)(5) of K.S.A 22-4902, and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(j) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

(k) For any person moving to Kansas who has been convicted or adjudicated in an out of state court, or who was required to register under an out of state law, the duration of registration shall be the length of time required by the out of state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this subsection shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June l, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June l, 2006.

(l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out of state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act. The duration of registration shall begin upon establishing residency, beginning employment or

beginning school.

Sec. 31. K.S.A. 2012 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2012 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2012 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in subsection (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2012 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Civil custody case" includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11, of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2012 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(j) "Educational institution" means all schools at the elementary and secondary levels.

(k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.

(l) "Harm" means physical or psychological injury or damage.

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2012 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(o) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(p) "Juvenile intake and assessment worker" means a responsible adult authorized

to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(q) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2012 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(t) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 38-2217, and amendments thereto.

(u) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(v) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(w) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(x) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2012 Supp. 38-2272, and amendments thereto.

(y) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(z) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(bb) "Secretary" means the secretary of ~~social and rehabilitation services~~ the

department for children and families or the secretary's designee.

(cc) "Secure facility" means a facility, other than a staff secure facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(dd) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in ~~prostitution~~ the sale of sexual relations or commercial sexual exploitation of a child, or to be photographed, filmed or depicted in pornographic material.

(ee) "Shelter facility" means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ff) "Staff secure facility" means a facility described in section 6, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

~~(ff)~~ (gg) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

~~(gg)~~ (hh) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 32. On January 1, 2014, K.S.A. 2012 Supp. 38-2231 is hereby amended to read as follows: 38-2231. (a) A law enforcement officer or court services officer shall take a child under 18 years of age into custody when:

(1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or

(2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer shall take a child under 18 years of age into custody when the officer:

(1) ~~The law enforcement officer~~ Reasonably believes the child will be harmed if not immediately removed from the place or residence where the child has been found; ~~or~~

(2) ~~when the officer~~ has probable cause to believe that the child is a missing person

and a verified missing person entry for the child can be found in the national crime information center missing person system; or

(3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child.

(c) (1) If a person provides shelter to a child whom the person knows is a runaway, such person shall promptly report the child's location either to a law enforcement agency or to the child's parent or other custodian.

(2) If a person reports a runaway's location to a law enforcement agency pursuant to this section and a law enforcement officer of the agency has reasonable grounds to believe that it is in the child's best interests, the child may be allowed to remain in the place where shelter is being provided, subject to subsection (b), in the absence of a court order to the contrary. If the child is allowed to so remain, the law enforcement agency shall promptly notify the secretary of the child's location and circumstances.

(d) Except as provided in subsections (a) and (b), a law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and amendments thereto, during the hours school is actually in session and shall deliver the child pursuant to subsection (g) of K.S.A. 2012 Supp. 38-2232, and amendments thereto.

Sec. 33. On January 1, 2014, K.S.A. 2012 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) (1) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall forthwith be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child.

(2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall forthwith be delivered to a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.

(3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a juvenile detention facility or other secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(4) No child taken into custody pursuant to this code shall be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(5) It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child

to be taken into custody.

(b) (1) When any law enforcement officer takes into custody any child as provided in subsection (b)(2) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2012 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(2) When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

(1) The name and address of the child, if known;

(2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and

(3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in subsection (d) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the child shall forthwith be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 34. On January 1, 2014, K.S.A. 2012 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The

application shall state for each child:

(1) The applicant's belief that the child is a child in need of care;

(2) that the child is likely to sustain harm if not immediately removed from the home;

(3) that allowing the child to remain in the home is contrary to the welfare of the child; and

(4) the facts relied upon to support the application, including efforts known to the applicant to maintain the family unit and prevent the unnecessary removal of the child from the child's home, or the specific facts supporting that an emergency exists which threatens the safety of the child.

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2012 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2012 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit between the child and the parent or parents within such time period as the child is in protective custody. The court may prohibit such supervised visit if the court determines it is not in the best interest of the child.

(c) (1) Whenever the court determines the necessity for an order of protective custody, the court may place the child in the protective custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (e);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; ~~or~~

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto; or

~~(E)~~ (F) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are

in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility pursuant to an order of protective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(d) The order of protective custody shall be served pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A) (i) The child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, the court shall provide the secretary with a written copy of any orders entered upon making the order.

Sec. 35. On January 1, 2014, K.S.A. 2012 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; ~~or~~ (3) health or welfare of the child may be endangered without further care; (4) child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto; or (5) child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto.

(g) (1) Whenever the court determines the necessity for an order of temporary custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; ~~or~~

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto; or

~~(E)~~ (F) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When

the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2012 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A) (i) The child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2012 Supp. 38-2277, and amendments thereto.

Sec. 36. On January 1, 2014, K.S.A. 2012 Supp. 38-2255 is hereby amended to read as follows: 38-2255. (a) *Considerations.* Prior to entering an order of disposition, the court shall give consideration to:

(1) The child's physical, mental and emotional condition;

(2) the child's need for assistance;

(3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;

(4) any relevant information from the intake and assessment process; and

(5) the evidence received at the dispositional hearing.

(b) *Custody with a parent.* The court may place the child in the custody of either of

the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

(1) Supervision of the child and the parent by a court services officer;

(2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and

(3) any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) *Removal of a child from custody of a parent.* The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

The court shall not enter an order removing a child from the custody of a parent pursuant to this section based solely on the finding that the parent is homeless.

(d) *Custody of a child removed from the custody of a parent.* If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to: A relative of the child or to a person with whom the child has close emotional ties who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~, to~~; any other suitable person~~, to~~; a shelter facility~~, to~~; a youth residential facility; a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto; or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody. After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer

contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 2012 Supp. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: (A) Murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto; (B) murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto; (D) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto; or (E) a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

(4) whether the child has been in extended out of home placement;

(5) whether the parents have failed to work diligently toward reintegration;

(6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and

(7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) *Proceedings if reintegration is not a viable alternative.* If the court determines

that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall hold a hearing on the motion within 90 days of its filing. No hearing is required when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian.

(g) *Additional Orders.* In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2012 Supp. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2012 Supp. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed

by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 37. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2012 Supp. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. Except as otherwise provided by law, a petition for

expungement shall be accompanied by a docket fee in the amount of $100. On and after the effective date of this act through June 30, 2013, the supreme court may impose a charge, not to exceed $19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(e) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) (i) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge; or

(ii) one year has elapsed since the final discharge for an adjudication concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto;

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

(h) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(i) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

(j) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

(k) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of ~~social and rehabilitation services~~ the department for children and families, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social and rehabilitation services~~ for children and families of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(8) the Kansas sentencing commission; or

(9) the Kansas bureau of investigation, for the purposes of:

(A) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(l) The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.

Sec. 38. K.S.A. 2012 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2012 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2012 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2012 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of K.S.A. 2012 Supp. 38-2365, and amendments thereto, the court may impose one or more of the following sentencing alternatives. In the event that any sentencing alternative chosen constitutes an order authorizing or requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2012 Supp. 38-2334 and 38-2335, and amendments thereto.

(1) Place the juvenile on probation through court services or community corrections for a fixed period, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation. Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (10) or (12). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding $1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. 2012 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the commissioner as provided in K.S.A. 2012 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative.

(11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject to the provisions of subsection (f).

(12) Commit the juvenile directly to the custody of the commissioner for a period of confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A. 2012 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2012 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision, provided however, that 21 days prior to the juvenile's release from a juvenile correctional facility, the commissioner or designee shall notify the court of the juvenile's anticipated release date. The court shall set and hold a permanency hearing pursuant to K.S.A. 2012 Supp. 38-2365, and amendments thereto, within seven days after the juvenile's release. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:

(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge

a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the commissioner or the juvenile justice authority nor shall the fee be assessed against the secretary of ~~social and rehabilitation services~~ the department for children and families or the department ~~of social and rehabilitation services~~ for children and families if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the

conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed $1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to

pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court may order commitment for up to 28 days for the same offense or violation of sentencing condition. The court shall review the commitment every seven days and, may shorten the initial commitment or, if the initial term is less than 28 days, may extend the commitment;

(2) if, in the sentencing order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays, holidays, and days on which the office of the clerk of the court is not accessible, prior to court review of the placement. The court and all parties shall be notified of the sanctions house placement; and

(3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(g) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(h) In addition to the requirements of K.S.A. 2012 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(i) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto; (3) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto; (4) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto; (5) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute~~ commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in parts

(1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(j) The sentencing hearing shall be open to the public as provided in K.S.A. 2012 Supp. 38-2353, and amendments thereto.

Sec. 39. K.S.A. 2012 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping ~~a house of prostitution~~ any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of ~~a house of prostitution~~ any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the

issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2012 Supp. 41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping ~~a house of prostitution~~ any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of ~~a house of prostitution~~ any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 40. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by K.S.A. 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. Drinking establishment includes a railway car.

(i) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(j) "Food service establishment" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(k) "Hotel" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(l) "Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term "individual drink" includes beverages containing not more than: (1) Eight ounces of wine; (2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces of a single spirit or a combination of spirits.

(m) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

(n) "Minor" means a person under 21 years of age.

(o) "Morals charge" means a charge involving ~~prostitution~~ the sale of sexual relations; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(p) "Municipal corporation" means the governing body of any county or city.

(q) "Public venue" means an arena, stadium, hall or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

(1) Not less than 4,000 permanent seats; and

(2) not less than two private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

(r) "Railway car" means a locomotive drawn conveyance used for the transportation and accommodation of human passengers that is confined to a fixed rail route and which derives from sales of food for consumption on the railway car not less than 30% of its gross receipts from all sales of food and beverages in a 12-month

period.

(s) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment.

(t) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

(u) "Secretary" means the secretary of revenue.

(v) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Sec. 41. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations involving controlled substances, as described in K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

(c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto;

(d) criminal discharge of a firearm, as defined in subsections (a)(1) and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

(e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and amendments thereto, and commercial gambling, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

(f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and amendments thereto;

(g) unlawful possession or use of a scanning device or reencoder, as described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

(h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925 through 21-5934, and amendments thereto;

(i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(l) furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments thereto;

(m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2012 Supp. 21-6414, and amendments thereto;

(n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2012 Supp. 21-6417, and amendments thereto;

(o) ~~prostitution~~ selling sexual relations, as defined in K.S.A. 2012 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ the sale of sexual relations, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, and ~~patronizing a prostitute~~ buying sexual relations, as defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;

(p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(q) violations of the banking code, as described in K.S.A. 9-2012, and amendments thereto;

(r) mistreatment of a dependent adult, as defined in K.S.A. 2012 Supp. 21-5417, and amendments thereto;

(s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-5821, and amendments thereto;

(t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and amendments thereto;

(u) making false information, as defined in K.S.A. 2012 Supp. 21-5824, and amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 2012 Supp. 21-5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 2012 Supp. 21-5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in subsections (a) and (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509, and amendments thereto; ~~and~~

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8-1568, and amendments thereto; and

(aa) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto.

Sec. 42. K.S.A. 2012 Supp. 68-2255 is hereby amended to read as follows: 68-2255. (a) As used in this section:

(1) "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(A) Persons who appear in a state of nudity or semi-nudity;

(B) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(C) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

(2) "nudity" or a "state of nudity" means the showing of the human male or female

genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state;

(3) "semi-nudity" means a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part;

(4) "sexually-oriented business" means any business which offers its patrons goods of which a substantial portion are sexually-oriented materials. Any business where more than 10% of display space is used for sexually-oriented materials shall be presumed to be a sexually-oriented business;

(5) "sexually-oriented materials" means any textual, pictorial or three dimensional material that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors;

(6) "sign" or "outdoor advertising" means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area, and is visible from the state highway.

(b) No sign or other outdoor advertising, for an adult cabaret or sexually-oriented business shall be located within one mile of any state highway except if such business is located within one mile of a state highway then the business may display a maximum of two exterior signs on the premises of the business, consisting of one identification sign and one sign solely giving notice that the premises are off limits to minors. The identification sign shall be no more than 40 square feet in size and shall include no more than the following information: Name, street address, telephone number and operating hours of the business.

(c) Signs existing at the time of the effective date of this act, which did not conform to the requirements of this section, and amendments thereto, may be allowed to continue as a nonconforming use, but should be made to conform within three years from July 1, 2006.

(d) Any owner of such a business who violates the provisions of this section shall be guilty of a class C misdemeanor. Each week a violation of this section continues to exist shall constitute a separate offense.

(e) This section is designed to protect the following public policy interests of this state, including, but not limited to:

(1) To mitigate the adverse secondary effects of sexually-oriented businesses; (2) to improve traffic safety; (3) to limit harm to minors; and (4) to reduce ~~prostitution~~ the sale of sexual relations, crime, juvenile delinquency, deterioration in property values and lethargy in neighborhood improvement efforts.

(f) The attorney general shall represent the state in all actions and proceedings arising from this section, and amendments thereto. All costs incurred by the attorney general to defend or prosecute this section, including payment of all court costs, civil

judgments and, if necessary, any attorneys fees, shall be paid from the state general fund.

Sec. 43. K.S.A. 22-2530 and K.S.A. 2012 Supp. 12-4106, 12-4120, 12-4516, 21-5301, 21-5302, 21-5303, 21-5401, 21-5502, 21-6419, 21-6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6806, 21-6815, 22-2515, 22-3601, 22-3717, 22-3901, 22-4902, 22-4906, 38-2202, 38-2312, 38-2361, 41-311, 41-2601, 60-4104 and 68-2255 are hereby repealed.

Sec. 44. On January 1, 2014, K.S.A. 2012 Supp. 38-2231, 38-2232, 38-2242, 38-2243 and 38-2255 are hereby repealed.";

And by redesignating sections accordingly;

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

"AN ACT concerning crimes, punishment and criminal procedure; relating to human trafficking; human trafficking advisory board; establishing the human trafficking victim assistance fund; creating the crime of commercial sexual exploitation of a child; relating to selling sexual relations, promoting sexual relations, buying sexual relations; children in need of care; staff secure facilities; amending K.S.A. 22-2530 and K.S.A. 2012 Supp. 12-4106, 12-4120, 12-4516, 21-5301, 21-5302, 21-5303, 21-5401, 21-5502, 21-6419, 21-6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6806, 21-6815, 22-2515, 22-3601, 22-3717, 22-3901, 22-4902, 22-4906, 38-2202, 38-2231, 38-2232, 38-2242, 38-2243, 38-2255, 38-2312, 38-2361, 41-311, 41-2601, 60-4104 and 68-2255 and repealing the existing sections.";

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

JEFF KING
GREG SMITH
DAVID HALEY
Conferees on part of Senate

JOHN J. RUBIN
RAMON C. GONZALEZ, JR.
GAIL FINNEY
Conferees on part of House

On motion of Rep. Rubin, the conference committee report on **S Sub for HB 2034** was adopted.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid,

Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2025** submits the following report:

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

On page 3, in line 12, after "once" by inserting "in January and once in April"; in line 13, by striking "second,"; in line 14, after "chairperson" by inserting ", but not to exceed six meetings in a calendar year, except additional meetings may be held on call of the chairperson when urgent circumstances exist which require such meetings";

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

MARY PILCHER-COOK
ELAINE BOWERS
LAURA KELLY
Conferees on part of Senate

J. DAVID CRUM
BRIAN WEBER
JIM WARD
Conferees on part of House

On motion of Rep. Weber, the conference committee report on **HB 2025** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2199** submits the following report:

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

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

By striking all on pages 2 and 3 and inserting:

"New Section 1. (a) Notwithstanding the provisions of either the Kansas administrative procedure act, and amendments thereto, or any rule and regulation adopted pursuant to the Kansas liquor control act, and amendments thereto, governing the issuance of any written administrative notice or order concerning the imposition of any proposed civil fine or other penalty to be imposed for a violation of any of the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto, such notice or order shall be issued no later than 90 days after the date a citation for such violation was issued.

(b) This section shall be part of and supplemental to the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto.

New Sec. 2. (a) Notwithstanding the provisions of either the Kansas administrative procedure act, and amendments thereto, or any rule and regulation adopted pursuant to the club and drinking establishment act, and amendments thereto, governing the issuance of any written administrative notice or order concerning the imposition of any proposed civil fine or other penalty to be imposed for a violation of any of the provisions of the club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto, such notice or order shall be issued no later than 90 days after the date a citation for such violation was issued.

(b) This section shall be part of and supplemental to the provisions of the Kansas club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto.

Sec. 3. K.S.A. 2012 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and the maker's family; persons who receive a personal invitation to an event conducted by the maker and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; ~~or~~

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary~~.~~;

(h) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto~~.~~; or

(i) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

Sec. 4. K.S.A. 2012 Supp. 41-308d is hereby amended to read as follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a

presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the retailer on whose premises the tasting is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier or its agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

(5) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 5. K.S.A. 2012 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who ~~has not been~~ is not a citizen of the United States ~~for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death~~;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county,

appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2012 Supp. 41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license

under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 6. K.S.A. 2012 Supp. 41-354 is hereby amended to read as follows: 41-354. (a) A microdistillery license shall allow:

(1) The manufacture of not more than 50,000 gallons of spirits per year and the storage thereof;

(2) the sale to spirit distributors of spirits, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of spirits manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of spirits manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of spirits and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of spirits and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microdistillery licensee, the director may issue not to exceed one microdistillery packaging and warehousing facility license to the microdistillery licensee. A microdistillery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microdistillery to the licensed premises of the microdistillery packaging and warehousing facility, of spirits manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microdistillery packaging and warehousing facility to the licensed premises of the microdistillery, of spirits manufactured by the licensee; or

(3) the removal from the licensed premises of the microdistillery packaging and warehousing facility of spirits manufactured by the licensee for the purpose of delivery to a licensed spirits wholesaler.

(c) A microdistillery may sell spirits in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microdistillery may serve samples of spirits and serve and sell spirits and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of distillers a permit to import into this state small quantities of spirits. Such spirits shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such spirits shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of spirit to be imported, the quantity to be imported, the tasting programs for which the spirit is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of spirits pursuant to this subsection and the conduct of tasting programs for which such spirits are imported.

(e) A microdistillery license or microdistillery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microdistillery shall:

(1) Employ any person under the age of 18 years in connection with the

manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microdistillery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

(h) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(i) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(j) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 7. K.S.A. 41-713 is hereby amended to read as follows: 41-713. (a) It shall be unlawful for a retailer of alcoholic liquor:

(1) To permit any person to mix drinks in or on the licensed premises, except as provided in subsection (b);

(2) to employ any person under the age of ~~twenty-one (21)~~ 21 years in connection with the operation of such retail establishment; or

(3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.

(b) The provisions of subsection (a)(1) shall not apply to the preparation or mixing of samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 2012 Supp. 41-308d, and amendments thereto.

Sec. 8. K.S.A. 2012 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or

consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or K.S.A. 2012 Supp. 41-354, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and

amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

(12) On the premises of the state capitol building or on its surrounding premises during an official state function that has been approved by the legislative coordinating council.

(13) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than $50 or more than $200 or by imprisonment for not more than six months, or both.

(j) For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local

governing body of any city, county or township.

Sec. 9. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by K.S.A. 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. Drinking establishment includes a railway car.

(i) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(j) "Food service establishment" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(k) "Hotel" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(l) "Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term "individual drink" includes beverages containing not more than: (1) Eight ounces of wine; (2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces of a single spirit or a combination of spirits.

(m) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

(n) "Minor" means a person under 21 years of age.

(o) "Morals charge" means a charge involving prostitution; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession

or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(p) "Municipal corporation" means the governing body of any county or city.

(q) "Public venue" means an arena, stadium, hall or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

(1) Not less than 4,000 permanent seats; and

(2) not less than two private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

(r) "Railway car" means a locomotive drawn conveyance used for the transportation and accommodation of human passengers that is confined to a fixed rail route and which derives from sales of food for consumption on the railway car not less than 30% of its gross receipts from all sales of food and beverages in a 12-month period.

(s) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment.

(t) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

(u) "Sample" means a serving of alcoholic liquor which contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A sample of a mixed alcoholic beverage shall contain not more than one-half ounce of distilled spirits.

~~(u)~~ (v) "Secretary" means the secretary of revenue.

~~(v)~~ (w) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Sec. 10. K.S.A. 41-2610 is hereby amended to read as follows: 41-2610. It shall be unlawful for any licensee or holder of a temporary permit under this act to:

(a) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor.

(b) Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

(c) ~~Employ knowingly or to continue in employment any person in connection~~

~~with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, during the two-year period immediately following such adjudging.~~ Knowingly employ or continue to employ any person in connection with the dispensing or serving of alcoholic liquor, or the mixing of drinks containing alcoholic liquor, who has been adjudged guilty of two or more violations of K.S.A. 2012 Supp. 21-5607, and amendments thereto, furnishing alcoholic liquor to minors or a similar law of any other state, or of the United States, pertaining to furnishing alcoholic liquor to minors within the immediately preceding five years, or who has been adjudged guilty of three or more violations of any intoxicating liquor law of this or any other state, or of the United States, not involving the furnishing of alcoholic liquor to minors within the immediately preceding five years.

(d) In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses or refuse to allow the director, any of the director's authorized agents or any law enforcement officer to inspect such list.

(e) Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder.

(f) Permit any employee of the licensee or permit holder who is under the age of 21 years to work on premises where alcoholic liquor is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over.

(g) Employ any person under 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor.

Sec. 11. K.S.A. 2012 Supp. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them; and (2) serve samples of alcoholic liquor free of charge for consumption by members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept

separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 12. K.S.A. 2012 Supp. 41-2640 is hereby amended to read as follows: 41-2640. (a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;

(3) sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes; or

(5) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (4).

(b) No public venue, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person a drink or original container of alcoholic liquor or cereal malt beverage at a price that is less than the acquisition cost of the drink or original container of alcoholic liquor or cereal malt beverage to the licensee;

(3) sell or serve alcoholic liquor in glass containers to customers in the general admission area;

(4) sell or serve more than two drinks per customer at any one time in the general admission area;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes; or

(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (b)(1) through (5).

(c) A public venue club, drinking establishment, caterer or holder of a temporary permit may:

(1) Offer free food or entertainment at any time;

(2) sell or deliver wine by the bottle or carafe;

(3) sell, offer to sell and serve individual drinks at different prices throughout any day; ~~or~~

(4) sell or serve beer or cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces;

(5) offer samples of alcohol liquor free of charge as authorized by this act; or

(6) sell or serve margarita, sangria, daiquiri, mojito or other mixed alcoholic beverages as approved by the director in a pitcher containing not more than 64 fluid ounces; or

(d) any licensee located in a lottery gaming facility may offer customer self-service of wine from automated devices on the licensee's premises so long as the licensee monitors and has the ability to control the consumption of such wine from such

automated devices and such consumption is monitored by video surveillance under the real-time review of the licensee's management and the Kansas racing and gaming commission.

(e) A hotel of which the entire premises is licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, distribute to its guests coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel shall remit liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink served based on a price which is not less than the acquisition cost of the drink.

(f) A hotel of which the entire premises is not licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, through an agreement with one or more clubs or drinking establishments, distribute to its guests coupons redeemable at such clubs or drinking establishments for drinks containing alcoholic liquor. Each club or drinking establishment redeeming coupons issued by a hotel shall collect from the hotel the agreed price, which shall be not less than the acquisition cost of the drink plus the liquor drink tax for each drink served. The club or drinking establishment shall collect and remit the liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto.

~~(d)~~(g) Violation of any provision of this section is a misdemeanor punishable as provided by K.S.A. 41-2633, and amendments thereto.

~~(e)~~(h) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A. 41-2609, and amendments thereto, and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A. 41-2633a, and amendments thereto.

~~(f) Every licensed club and drinking establishment shall make available at any time upon request a price list showing the club's or drinking establishment's current prices per individual drink for all individual drinks.~~

Sec. 13. K.S.A. 2012 Supp. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them; and (2) serve samples of alcoholic liquor free of charge on the licensed premises for consumption by such members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic

liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

(1) Be screened by the club for good moral character;

(2) pay an annual membership fee of not less than $10; and

(3) wait for a period of 10 days after completion of the application form and payment of the membership fee.

(d) Notwithstanding the membership fee and waiting period requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(2) Any class B club located on property which is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this subsection (d)(3) shall present the temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall not be subject to the waiting period or fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel or RV resort whereby a guest who is registered at the hotel or RV resort and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and shall not be subject to the waiting period or dues requirement of this section. A club may enter into a written agreement with a hotel or RV resort pursuant to this provision only if: (A) The hotel or RV resort is located in the same county as the club~~.~~; (B) there is no class B club located on the premises of the hotel or RV resort; and (C) no other club has entered into a written agreement with the hotel or RV resort pursuant to this section.

(5) Any class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons attending such races may file an application for temporary

membership in such club for the day such person is attending such races, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 14. K.S.A. 2012 Supp. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises which may be open to the public, and to serve samples of alcoholic liquor free of charge on licensed premises subject to the requirements of subsection (c), but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

~~(c)~~ (d) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

~~(d)~~ (e) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment/caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room

and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

~~(e)~~ (f) A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 15. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as follows: 41-2655. (a) A license for a public venue shall allow the licensee to:

(1) Offer for sale, sell and serve alcoholic liquor by the individual drink for consumption on the licensed premises;

(2) offer for sale, sell and serve unlimited drinks for a fixed price in designated areas of the licensed premises;

(3) offer for sale and sell all inclusive packages which include unlimited drinks in designated areas of the licensed premises;

(4) offer for sale, sell and serve alcoholic liquor in the original container for consumption on the licensed premises in private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier;

(5) store, in each private suite, which ~~are~~ is enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier, alcoholic liquor sold in the original container to a customer in that private suite; and

(6) with the approval of the retailer or distributor, return for a full refund of the original purchase price unopened containers of alcoholic liquor to the retailer or distributor from whom such items were purchased upon the conclusion of an event if the next scheduled event for that premises is more than 90 days from the date of the concluded event.

(b) An applicant or public venue licensee shall specify in the application for a license, or renewal of a license, the premises to be licensed. No public venue licensee may offer for sale, sell or serve any alcoholic liquor in any area not included in the licensed premises.

(c) The term "designated areas" for purposes of this section shall mean an area identified in the license application, which may include suites, that has controlled access and is separated from the general admission by a barrier.

(d) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(e) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(f) This section shall be a part of and supplemental to the club and drinking establishment act.

Sec. 16. K.S.A. 2012 Supp. 79-41a02 is hereby amended to read as follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment, public venue or temporary permit holder, and upon the acquisition costs of any alcoholic liquor served as samples by clubs and drinking establishments.

(b) The tax imposed by this section shall be paid by the consumer to the club, caterer, drinking establishment, public venue or temporary permit holder and it shall be the duty of each and every club, caterer, drinking establishment, public venue or temporary permit holder subject to this section to collect from the consumer the full amount of such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each club, caterer, drinking establishment, public venue or temporary permit holder collecting the tax imposed hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the state department of revenue shall administer and enforce the collection of such tax.

(c) Any club or drinking establishment that serves free samples of alcoholic liquor shall remit the tax imposed by subsection (a) in the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the state department of revenue shall administer and enforce the payment of such tax.

New Sec. 17. (a) Alcoholic liquor and cereal malt beverage for the sampling as provided for in K.S.A. 41-2637, 41-2640, 41-2641 and 41-2642, and amendments thereto, shall be withdrawn from the inventory of the licensee. Except as provided by subsection (b), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(b) The holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a licensee's premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch or pour alcoholic beverages, make a presentation or answer questions at the tasting. Any alcoholic beverage or cereal malt beverages sampled under this subsection must be purchased from the licensee on whose premises the sampling is held. The licensee may not require the purchase of more alcoholic beverages or cereal malt beverages than is necessary for the tasting. This section does not authorize the supplier or its agent to withdraw or purchase an alcoholic beverage or cereal malt beverage from the holder of a distributor's license or provide an alcoholic beverage or cereal malt beverage for sampling on the licensee's premises that is not purchased from the licensee.

New Sec. 18. Each licensee licensed under this act who provides samples shall pay the drink tax imposed by K.S.A. 79-41a01 et seq., and amendments thereto, on the alcoholic liquor and cereal malt beverage inventory when the inventory is withdrawn from the licensee's stock based on the licensee's acquisition cost.

Sec. 19. K.S.A. 41-713 and 41-2610, and K.S.A. 2012 Supp. 41-104, 41-308d, 41-311, 41-354, 41-719, 41-2601, 41-2637, 41-2640, 41-2641, 41-2642, 41-2655 and 79-41a02 are hereby repealed.

Sec. 20. 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 alcoholic beverages; amending K.S.A. 41-713 and 41-2610 and K.S.A. 2012 Supp. 41-104, 41-308d, 41-311, 41-354, 41-719, 41-2601, 41-2637, 41-2640, 41-2641, 41-2642, 41-2655 and 79-41a02 and repealing the existing sections.";

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

RALPH OSTMEYER
JAY SCOTT EMLER
OLETHA FAUST-GOUDEAU
Conferees on part of Senate

ARLEN H. SIEGFREID
STEVEN R. BRUNK
LOUIS E. RUIZ
Conferees on part of House

On motion of Rep. Siegfreid to adopt the conference committee report on **S Sub for HB 2199**, Rep. DeGraaf offered a substitute motion to not adopt the conference committee report and that a new conference committee be appointed. The motion did not prevail.

Rep. Edwards rose on a point of order under House Rule 108, citing Joint Rule 3 which pertains to a conference committee report that contains a bill which has not been acted on by either Chamber. The Rules Chair ruled the conference committee report out of order in its current form (see further action, p. 878 in this Journal).

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2164** 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, in line 5, before "Section" by inserting "New"; in line 9, by striking "regarding citizenship"; in line 10, by striking all before "to"; in line 13, after the period, by inserting "Any such information provided by a jury commissioner to the secretary of state shall be limited to the information regarding citizenship and the full name, current and prior addresses, age and telephone number of the prospective juror, and, if available, the date of birth of the prospective juror."; in line 15, by striking "and the"; by striking all in line 16; in line 17, by striking all before the period; following line 19, by inserting:

"Sec. 2. K.S.A. 2012 Supp. 22-3001 is hereby amended to read as follows: 22-3001. (a) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(b) The district or county attorney in such attorney's county may petition the chief judge or the chief judge's designee in such district court to order a grand jury to be summoned in the designated county in the district to ~~investigate alleged violations of an off-grid felony, a severity level 1, 2, 3 or 4 felony or a drug severity level 1 or 2 felony~~ consider any alleged felony law violation. The attorney general in any judicial district may petition the chief judge or the chief judge's designee in such judicial district to

order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation if authorized by the district or county attorney in such judicial district or if jurisdiction is otherwise authorized by law. The chief judge or the chief judge's designee in the district court of the county shall then consider the petition and, if it is found that the petition is in proper form, as set forth in this subsection, shall order a grand jury to be summoned within 15 days after receipt of such petition.

(c) (1) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election.

(2) The petition, upon its face, shall state the name, address and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

(3) The petition shall be in substantially the following form:

The undersigned qualified electors of the county of _____ and state of Kansas hereby request that the district court of _____ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any. One of the signers of each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true. The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court, together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election. The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned.

(4) After a grand jury is summoned pursuant to this subsection, but before it begins deliberations, the judge or judges of the district court of the county in which the petition is presented shall provide instructions to the grand jury regarding its conduct and deliberations, which instructions shall include, but not be limited to, the following:

(A) You have been impaneled as a grand jury pursuant to a citizens' petition filed in this court, signed by (insert number) qualified electors of this county, stating (insert the subject matter described in the petition, including a reasonably specific identification of the areas to be inquired into and the allegations sufficient to warrant a finding that the grand jury's inquiry may lead to information which, if true, would

warrant a true bill of indictment.) You are charged with making inquiry with regard to this subject matter and determining whether the facts support allegations warranting a true bill of indictment.

(B) The person filing the citizens' petition filed in this court must be the first witness you call for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(C) You may, with the approval of this court, employ special counsel and investigators, and incur such other expense for services and supplies as you and this court deem necessary. Any special counsel or investigator you employ shall be selected by a majority vote of your grand jury. You may make such selection only after hearing testimony from the person who filed the citizens' petition. You may utilize the services of any special counsel or investigator you employ instead of, or in addition to, the services of the prosecuting attorney.

(D) If any witness duly summoned to appear and testify before you fails or refuses to obey, compulsory process will be issued by this court to enforce the witness' attendance.

(E) If any witness appearing before you refuses to testify or to answer any questions asked in the course of the witness' examination, you shall communicate that fact to this court in writing, together with a statement regarding the question the witness refuses to answer. This court will determine and inform you of whether the witness is bound to answer or not. However, no witness appearing before you can be compelled to make any statement which will incriminate such witness.

(F) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

(G) At the conclusion of your inquiry and determination, you will return either a no bill of indictment or a true bill of indictment.

(d) The grand jury shall consist of 15 members and shall be drawn, qualified and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors.

Sec. 3. K.S.A. 22-3002 is hereby amended to read as follows: 22-3002. ~~(1)~~(a) The prosecuting attorney may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges by the state shall be made before the administration of the oath to the jurors and shall be tried by the court.

~~(2)~~(b) A motion to dismiss the indictment made by the defendant may be based on objections to the array or on the lack of legal qualification of an individual juror. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to K.S.A. 22-3004, and amendments thereto, that 12 or more jurors, after deducting the jurors not legally qualified, concurred in finding the indictment.

(c) After the prosecutor has conducted an examination of the prospective grand jurors under this section, a list of all remaining legally qualified grand jurors shall be

approved by the court and submitted to the clerk of the court of such county for a second drawing of grand juror names pursuant to K.S.A. 43-107, and amendments thereto.

Sec. 4. K.S.A. 22-3003 is hereby amended to read as follows: 22-3003. (a) An oath or affirmation shall be administered to the presiding juror of the grand jury, in substance as follows:

"You, as presiding juror of the grand jury, shall diligently inquire, and true presentment make, of all public offenses against the laws of this state cognizable by this court, committed or triable within this county, of which you have or can obtain legal evidence. You shall present no person through malice, hatred or ill will, nor leave any unpresented through fear, favor or affection, or for any reward or the promise of hope thereof, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding."

(b) Other members of the grand jury shall be administered the following oath:

"The same oath or affirmation, which your presiding juror has taken now before you on the presiding juror's part, you and each of you shall well and truly observe on your part."

Sec. 5. K.S.A. 22-3004 is hereby amended to read as follows: 22-3004. (a) The court shall appoint one of the jurors to be presiding juror and another to be deputy presiding juror.

(b) The presiding juror shall have power to administer oaths and affirmations and shall sign all indictments.

(c) The presiding juror or another juror designated by the presiding juror shall keep a record of the name of each juror concurring in the finding of every indictment and shall file the record with the clerk of the court, but the record shall not be made public except on order of the court.

(d) During the absence of the presiding juror, the deputy presiding juror shall act as presiding juror.

Sec. 6. K.S.A. 22-3005 is hereby amended to read as follows: 22-3005. ~~(1)~~ (a) When a grand jury is impaneled and sworn, it shall be charged by the judge who summoned it. In so doing, the judge shall give the grand jurors such information as ~~he~~ the judge deems proper and as is required by law, as to their duties, and as to any charges of crimes known to the court and likely to come before the grand jury.

~~(2)~~ (b) When the grand jury has been impaneled, sworn and charged, it shall retire to a private room, and inquire into the crimes cognizable by it.

Sec. 7. K.S.A. 22-3006 is hereby amended to read as follows: 22-3006. ~~(1)~~ (a) Persons summoned for service as grand jurors shall be compensated for their service and expenses at the rates provided by law for the compensation of petit jurors in the district court. Such compensation shall be paid from the general fund of the county.

~~(2)~~ (b) The grand jury shall employ a certified shorthand reporter who shall make a stenographic record of all testimony and other proceedings before the grand jury. The compensation of the reporter shall be fixed by the district court and paid from the general fund of the county.

~~(3)~~ (c) The grand jury may, with the approval of the district court, ~~employ special counsel, investigators, and incur such other expense~~ employ investigators and, except in the case of grand juries impaneled pursuant to subsection (b) of K.S.A. 22-3001, and amendments thereto, employ special counsel. The grand jury may also incur other

expenses for services and supplies as it and the district court may deem necessary. Compensation for such services and supplies shall be fixed by the district court and shall be paid from the general fund of the county. Any special counsel or investigator employed by the grand jury shall be selected by majority vote of such grand jury only after hearing testimony from the person filing the petition pursuant to K.S.A. 22-3001, and amendments thereto. Subject to the provisions of this section, the grand jury shall have all authority to investigate any concerns associated with such petition.

Sec. 8. K.S.A. 22-3007 is hereby amended to read as follows: 22-3007. ~~(1)~~ (a) In the case of grand juries impaneled pursuant to subsection (a) or (c) of K.S.A. 22-3001, and amendments thereto, the prosecuting attorney shall:

(1) When requested by any grand jury ~~it shall be the duty of the prosecuting attorney to,~~ attend sessions thereof for the purpose of examining witnesses or giving the grand jury advice upon any legal matter~~.~~ ; and

(2) ~~The prosecuting attorney shall, upon his~~ upon such attorney's request, be permitted to appear before the grand jury for the purpose of giving information relative to any matter cognizable by the grand jury, and may be permitted to interrogate witnesses if the grand jury deems it necessary.

(b) In the case of grand juries impaneled pursuant to subsection (b) of K.S.A. 22-3001, and amendments thereto, the prosecuting attorney shall:

(1) Attend all sessions thereof and inform the grand jury of all offenses liable to indictment and evidence of which will be presented to them for consideration;

(2) present witnesses and examine such witnesses on all matters to be considered by the grand jury; and

(3) give the grand jury advice upon all questions related to the proper discharge of their duties.

Sec. 9. K.S.A. 2012 Supp. 22-3008 is hereby amended to read as follows: 22-3008. ~~(1)~~ (a) Whenever required by any grand jury, its presiding juror or the prosecuting attorney, the clerk of the court in which the jury is impaneled shall issue subpoenas and other process to bring witnesses to testify before the grand jury. The person who filed the petition pursuant to K.S.A. 22-3001, and amendments thereto, shall be the first witness called by the grand jury for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

~~(2)~~ (b) If any witness duly summoned to appear and testify before a grand jury fails or refuses to obey, compulsory process shall be issued to enforce the witness' attendance, and the court may punish the delinquent in the same manner and upon the same proceedings as provided by law for disobedience of a subpoena issued out of the court in other cases.

~~(3)~~ (c) If any witness appearing before a grand jury refuses to testify or to answer any questions asked in the course of the witness' examination, the fact shall be communicated to a district judge of the judicial district in writing, on which the question refused to be answered shall be stated. The judge shall then determine whether the witness is bound to answer or not, and the grand jury shall be immediately informed of the decision.

~~(4)~~ (d) No witness before a grand jury shall be required to incriminate the witness' self.

~~(5) (a)~~ (e) (1) The county or district attorney, or the attorney general, at any time, on behalf of the state, and the district judge, upon determination that the interest of

justice requires, and after giving notice to the prosecuting attorney and hearing the prosecuting attorney's recommendations on the matter, may grant in writing to any person:

~~(i)~~ (A) Transactional immunity. Any person granted transactional immunity shall not be prosecuted for any crime which has been committed for which such immunity is granted or for any other transactions arising out of the same incident.

~~(ii)~~ (B) Use and derivative immunity. Any person granted use and derivative use immunity may be prosecuted for any crime, but the state shall not use any testimony against such person provided under a grant of such immunity or any evidence derived from such testimony. Any defendant may file with the court a motion to suppress in writing to prevent the state from using evidence on the grounds that the evidence was derived from and obtained against the defendant as a result of testimony or statements made under such grant of immunity. The motion shall state facts supporting the allegations. Upon a hearing on such motion, the state shall have the burden to prove by clear and convincing evidence that the evidence was obtained independently and from a collateral source.

~~(b)~~ (2) Any person granted immunity under either or both of subsections ~~(5)(a)(i) or (ii)~~ (e)(1)(A) or (e)(1)(B) may not refuse to testify on grounds that such testimony may self incriminate unless such testimony may form the basis for a violation of federal law for which immunity under federal law has not been conferred. No person shall be compelled to testify in any proceeding where the person is a defendant.

~~(c)~~ (3) No immunity shall be granted for perjury as provided in K.S.A. 2012 Supp. 21-5903, and amendments thereto, which was committed in giving such evidence.

~~(6)~~ (f) If the judge determines that the witness must answer and if the witness persists in refusing to answer, the witness shall be brought before the judge, who shall proceed in the same manner as if the witness had been interrogated and had refused to answer in open court.

(g) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

Sec. 10. K.S.A. 22-3009 is hereby amended to read as follows: 22-3009. ~~(1)~~ (a) Any person called to testify before a grand jury must be informed that ~~he~~ such person has a right to be advised by counsel and that ~~he may~~ such person shall not be required to make any statement which will incriminate ~~him~~ such person. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, ~~he~~ the witness shall be required to obtain other counsel within three ~~(3)~~ days in order that the work of the grand jury may proceed. If such person is indigent and unable to obtain the services of counsel, the court shall appoint counsel to assist ~~him~~ such person who shall be compensated as counsel appointed for indigent defendants in the district court.

~~(2)~~ (b) Counsel for any witness may be present while the witness is testifying and may interpose objections on behalf of the witness. ~~He~~ Such counsel shall not be permitted to examine or cross-examine ~~his~~ such counsel's client or any other witness before the grand jury.

Sec. 11. K.S.A. 22-3010 is hereby amended to read as follows: 22-3010.

Prosecuting attorneys, special counsel employed by the grand jury, the witness under examination and ~~his~~ such witness' counsel, interpreters when needed and, for the purpose of taking the evidence, the reporter for the grand jury, may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

Sec. 12. K.S.A. 22-3011 is hereby amended to read as follows: 22-3011. ~~(1)~~ (a) An indictment may be found only on the concurrence of 12 or more grand jurors. When an indictment is found, the presiding juror shall endorse thereon "a true bill" and shall sign the presiding juror's name as presiding juror.

~~(2)~~ (b) When 12 or more grand jurors do not concur in finding an indictment, the presiding juror shall certify that the indictment is "not a true bill."

~~(3)~~ (c) Indictments found by the grand jury shall be presented by its presiding juror, in the jury's presence, to the court and shall be filed and remain as records of the court.

Sec. 13. K.S.A. 22-3012 is hereby amended to read as follows: 22-3012. (a) Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror ~~may~~ shall be made to the prosecuting attorney for use in the performance of ~~his~~ such attorney's duties.

(b) Otherwise a juror, attorney, interpreter, reporter or any typist who transcribes recorded testimony ~~may~~ shall not disclose matters occurring before the grand jury ~~only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury~~ except, upon court order:

(1) The testimony of a witness before the grand jury may be disclosed to a defendant to determine whether it is consistent with testimony given before the court, but only upon a showing of good cause;

(2) evidentiary materials presented to one grand jury may be disclosed to a succeeding grand jury; and

(3) grand jury testimony by a defendant may be disclosed to such defendant, but only in the criminal action resulting from such testimony.

(c) No obligation of secrecy may be imposed upon any person except in accordance with this ~~rule~~ section. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

Sec. 14. K.S.A. 22-3013 is hereby amended to read as follows: 22-3013. ~~(1)~~ (a) A grand jury impaneled pursuant to subsection (a) or (c) of K.S.A. 22-3001, and amendments thereto, shall serve until it shall advise the court in writing that it has completed its investigation, but no such grand jury shall serve for more than three months unless extended by order of the district court. The district court may, before the expiration of the tenure of ~~a~~ such grand jury, make an order extending such grand jury for an additional period of not to exceed three months if the court finds that an investigation begun by ~~the~~ such grand jury cannot be completed within the initial three months period and that the public interest requires the continuation of ~~the~~ such grand jury.

(b) A grand jury impaneled pursuant to subsection (b) of K.S.A. 22-3001, and

amendments thereto, shall serve for a period of six months. The district court may, before the expiration of the tenure of such grand jury, make an order extending such grand jury for an additional period of not to exceed six months upon good cause shown by such grand jury.

~~(2)~~ (c) At any time for cause shown the court may excuse a juror either temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

Sec. 15. K.S.A. 22-3014 is hereby amended to read as follows: 22-3014. (a) Witnesses attending a grand jury in response to a subpoena shall be allowed the same fees as are allowed witnesses in criminal cases in the district court.

(b) ~~The~~ Such witness fees shall be paid from the general fund of the county upon a certificate of attendance signed by the presiding juror of the grand jury.

New Sec. 16. (a) *Matters of form, time, place, names.* At any time before or during trial, the court may, upon application of the people and with notice to the defendant and opportunity for the defendant to be heard, order the amendment of an indictment with respect to defects, errors or variances from the proof relating to matters of form, time, place and names of persons when such amendment does not change the substance of the charge, and does not prejudice the defendant on the merits. Upon ordering an amendment, the court, for good cause shown, may grant a continuance to provide the defendant adequate opportunity to prepare a defense.

(b) *Prohibition as to matters of substance.* An indictment shall not be amended as to the substance of the offense charged.

(c) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 17. K.S.A. 2012 Supp. 43-107 is hereby amended to read as follows: 43-107. (a) At least 30 days before service is required, the clerk of the court of the county where such court is to be held shall draw from the jury box the names of 30 persons to serve as grand jurors and the names of 24 persons to serve as petit jurors. In the event that a county has appropriate base information programmed as a part of its computer operations so that it might comply with the spirit of the jury selection laws of Kansas, the jury commissioners may by local rule provide alternate methods for securing jury panels directly from the computer without the necessity of drawing names or cards from a wheel manually.

(b) Upon receipt of a list of all remaining legally qualified grand jurors from the court pursuant to K.S.A. 22-3002, and amendments thereto, the clerk of the court of the county where such court is to be held shall draw for a second time 15 names of persons to serve as grand jurors from such list. In the event that the county in which court is to be held has an alternate method for securing jury panels directly from the computer, the clerk shall use the computer to generate 15 names of persons to serve as grand jurors from such list.

New Sec. 18. (a) Upon a majority vote of the grand jury, the grand jury may seek the removal of the assigned judge pursuant to K.S.A. 20-311d, and amendments thereto.

(b) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 19. K.S.A. 22-3002, 22-3003, 22-3004, 22-3005, 22-3006, 22-3007, 22-3009, 22-3010, 22-3011, 22-3012, 22-3013 and 22-3014 and K.S.A. 2012 Supp. 22-3001, 22-3008 and 43-107 are hereby repealed.";

And by redesignating sections accordingly;

On page 1, in the title, in line 1, by striking "jurors" and inserting "juries"; in line 2, following "service" by inserting "; grand juries; amending K.S.A. 22-3002, 22-3003, 22-3004, 22-3005, 22-3006, 22-3007, 22-3009, 22-3010, 22-3011, 22-3012, 22-3013 and 22-3014 and K.S.A. 2012 Supp. 22-3001, 22-3008 and 43-107 and repealing the existing sections";

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

JEFF KING
GREG SMITH
DAVID HALEY
Conferees on part of Senate

LANCE KINZER
ROB BRUCHMAN
JANICE L. PAULS
Conferees on part of House

On motion of Rep. Kinzer, the conference committee report on **HB 2164** was adopted.

On roll call, the vote was: Yeas 92; Nays 28; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Becker, Bideau, Boldra, Bradford, Bridges, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, DeGraaf, Dierks, Dove, Edmonds, Edwards, Esau, Ewy, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meier, Meigs, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber, Whipple.

Nays: Alcala, Ballard, Bollier, Burroughs, Carlin, Clayton, Davis, Dillmore, Doll, Finney, Frownfelter, Gandhi, Henderson, Kuether, Lane, Lusk, Menghini, Perry, Rooker, Ruiz, Sloop, Trimmer, Victors, Ward, Weigel, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171** 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 34;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 11, and inserting:

"New Section 1. (a) For school year 2013-2014 and school year 2014-2015, the following amount shall be transferred from the supplemental general fund of a district to the general fund of a district: The difference between (1) the amount equal to the product obtained by multiplying $4,264 by the adjusted enrollment; and (2) the amount equal to the product obtained by multiplying $3,838 by the adjusted enrollment. Such amount shall be funded by the district's local operating budget in accordance with K.S.A. 72-6433, and amendments thereto.

(b) This section shall be part of and supplemental to the school district finance and quality performance act as provided in K.S.A. 72-6405 et seq., and amendments thereto.

Sec. 2. K.S.A. 2012 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) Each year, the state board of education shall determine the amount of state aid for the provision of special education and related services each school district shall receive for the ensuing school year. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the total amount of general fund and local ~~option~~ operating budgets of all school districts;

(2) subtract from the amount determined in paragraph (1) the total amount attributable to assignment of transportation weighting, program weighting, special education weighting and at-risk pupil weighting to enrollment of all school districts;

(3) divide the remainder obtained in paragraph (2) by the total number of full-time equivalent pupils enrolled in all school districts on September 20;

(4) determine the total full-time equivalent enrollment of exceptional children receiving special education and related services provided by all school districts;

(5) multiply the amount of the quotient obtained in paragraph (3) by the full-time equivalent enrollment determined in paragraph (4);

(6) determine the amount of federal funds received by all school districts for the provision of special education and related services;

(7) determine the amount of revenue received by all school districts rendered under contracts with the state institutions for the provisions of special education and related services by the state institution;

(8) add the amounts determined under paragraphs (6) and (7) to the amount of the product obtained under paragraph (5);

(9) determine the total amount of expenditures of all school districts for the provision of special education and related services;

(10) subtract the amount of the sum obtained under paragraph (8) from the amount determined under paragraph (9); and

(11) multiply the remainder obtained under paragraph (10) by 92%.

The computed amount is the amount of state aid for the provision of special education and related services aid a school district is entitled to receive for the ensuing school year.

(b) Each school district shall be entitled to receive:

(1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to

80% of such actual travel allowances;

(2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

(3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed $600 per exceptional child per school year; and

(4) (A) except for those school districts entitled to receive reimbursement under subsection (c) or (d), after subtracting the amounts of reimbursement under paragraphs (1), (2) and (3) of ~~this~~ subsection (a) from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

(B) Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as $^{2}/_{5}$ full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(C) For purposes of this paragraph (4), a special teacher, qualified to assist in the provision of special education and related services to exceptional children, who assists in providing special education and related services to exceptional children at either the state school for the blind or the state school for the deaf and whose services are paid for by a school district pursuant to K.S.A. 76-1006 or 76-1102, and amendments thereto, shall be considered a special teacher of such school district.

(c) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(d) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all

amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

Sec. 3. K.S.A. 2012 Supp. 72-6409 is hereby amended to read as follows: 72-6409. (a) "General fund" means the fund of a district from which operating expenses are paid and in which is deposited the proceeds from the tax levied under K.S.A. 72-6431, and amendments thereto, all amounts of general state aid under this act, payments under K.S.A. 72-7105a, and amendments thereto, amounts transferred from the supplemental general fund to the general fund of a district in accordance with section 1, and amendments thereto, payments of federal funds made available under the provisions of title I of public law 874, except amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program, and such other moneys as are provided by law.

(b) "Operating expenses" means the total expenditures and lawful transfers from the general fund of a district during a school year for all purposes, except expenditures for the purposes specified in K.S.A. 72-6430, and amendments thereto.

(c) "General fund budget" means the amount budgeted for operating expenses in the general fund of a district.

(d) "Budget per pupil" means the general fund budget of a district divided by the enrollment of the district.

(e) "Program weighted fund" means and includes the following funds of a district: Vocational education fund, preschool-aged at-risk education fund and bilingual education fund.

(f) "Categorical fund" means and includes the following funds of a district: Special education fund, food service fund, driver training fund, adult education fund, adult supplementary education fund, area vocational school fund, professional development fund, parent education program fund, summer program fund, extraordinary school program fund, and educational excellence grant program fund.

Sec. 4. K.S.A. 2012 Supp. 72-6410 is hereby amended to read as follows: 72-6410. (a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) (1) "Base state aid per pupil" means an amount of state financial aid per pupil. Subject to the other provisions of this subsection, the amount of base state aid per pupil is ~~$4,433~~ $4,264 in school year ~~2008-2009~~ 2013-2014 and school year 2014-2015 and $4,492 in school year ~~2009-2010~~ 2015-2016 and each school year thereafter.

(2) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount

transferred from the supplemental general fund of the district to the general fund of the district in accordance with section 1, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and under the provisions of articles 42 and 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto, and an amount equal to 70% of the federal impact aid of the district.

(d) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 5. K.S.A. 2012 Supp. 72-6415b is hereby amended to read as follows: 72-6415b. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local ~~option~~ operating budget in an amount equal to at least 25% of the amount of the state financial aid determined for the district in the current school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

Sec. 6. K.S.A. 2012 Supp. 72-6433 is hereby amended to read as follows: 72-6433. (a) As used in this section:

(1) "State prescribed percentage" means 31% of state financial aid of the district in the current school year.

(2) "Authorized to adopt a local ~~option~~ operating budget" means that a district has adopted a resolution under this section, has published the same, and either the resolution was not protested or it was protested and an election was held by which the adoption of

a local ~~option~~ operating budget was approved.

(b) In each school year, the board of any district ~~may~~ shall adopt a local ~~option~~ operating budget which does not exceed the state prescribed percentage and which shall be at least the amount required under section 1, and amendments thereto.

(c) Subject to ~~the limitation of~~ subsection (b), in each school year, the ~~board of any district may adopt, by resolution, a~~ local ~~option~~ operating budget ~~in an amount~~ shall not ~~to~~ exceed:

(1) (A) The amount which the board was authorized to adopt in accordance with the provisions of this section in effect prior to its amendment by this act; plus

(B) the amount which the board was authorized to adopt pursuant to any resolution currently in effect; plus

(C) the amount which the board was authorized to adopt pursuant to K.S.A. 72-6444, and amendments thereto, if applicable to the district; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection (j).

~~Except as provided by subsection (c), the adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.~~

(d) If the board of a district desires to increase its local ~~option~~ operating budget authority above the amount authorized under subsection (c) or if the board was not authorized to adopt a local option budget in 2006-2007, the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. _____,

_____County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local ~~option~~ operating budget in each school year in an amount not to exceed ____% of the amount of state financial aid. The local ~~option~~ operating budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local ~~option~~ operating budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of unified School District No. _____, _____ County, Kansas, on the

_____ day of _____, _____.

_____
Clerk of the board of education.

All of the blanks in the resolution shall be filled as is appropriate. If a sufficient petition is not filed, the board may adopt a local ~~option~~ operating budget. If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local ~~option~~ operating budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(e) Any resolution authorizing the adoption of a local ~~option~~ operating budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto.

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local ~~option~~ operating budget shall be continuous and permanent. The board of any district which is authorized to adopt a local ~~option~~ operating budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local ~~option~~ operating budget is not continuous and permanent refrains from adopting a local ~~option~~ operating budget, the authority of such district to adopt a local ~~option~~ operating budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(g) The board of any district may initiate procedures to renew or increase the authority to adopt a local ~~option~~ operating budget at any time during a school year after the tax levied pursuant to K.S.A. 72-6435, and amendments thereto, is certified to the county clerk under any existing authorization.

(h) The board of any district that is authorized to adopt a local ~~option~~ operating budget prior to the effective date of this act under a resolution which authorized the adoption of such budget in accordance with the provisions of this section in effect prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The maximum amount of the local ~~option~~ operating budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(j) (1) There is hereby established in every district ~~that adopts a local option budget~~

a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under paragraph (3) and subsection (e) of K.S.A. 72-6434, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local ~~option~~ operating budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) (A) Except as provided in paragraph (B), any unexpended ~~budget~~ moneys remaining in the supplemental general fund of a district at the conclusion of any school year in which a local ~~option~~ operating budget is adopted shall be maintained in such fund.

(B) If the district received supplemental general state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local ~~option~~ operating budget of the district for the school year and multiply the total amount of the unexpended budget remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district or remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(k) Each year the state board of education shall determine the statewide average percentage of local ~~option~~ operating budgets legally adopted by school districts for the preceding school year.

(l) For the purposes of this section, the term "local operating budget" means "local option budget" as that term was used prior to the amendment of this section by this act.

~~(l)~~ (m) The provisions of this section shall be subject to the provisions of K.S.A. 2012 Supp. 72-6433d, and amendments thereto.

Sec. 7. K.S.A. 2012 Supp. 72-6433d is hereby amended to read as follows: 72-6433d. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is $4,433 or less.

(2) The board of any school district may adopt a local ~~option~~ operating budget which does not exceed the local ~~option~~ operating budget calculated as if the base state aid per pupil was $4,433, or which does not exceed the local ~~option~~ operating budget as calculated pursuant to K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) The board of education of any school district may adopt a local ~~option~~ operating budget which does not exceed the local ~~option~~ operating budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed the local ~~option~~ operating budget as calculated pursuant to K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.

(e) The provisions of this section shall expire on June 30, 2014.

Sec. 8. K.S.A. 2012 Supp. 72-6434 is hereby amended to read as follows: 72-6434. (a) In each school year, each district that has adopted a local ~~option~~ operating budget is eligible for entitlement to an amount of supplemental general state aid. Except as provided by K.S.A. 2012 Supp. 72-6434b, and amendments thereto, entitlement of a district to supplemental general state aid shall be determined by the state board as provided in this subsection. The state board shall:

(1) Determine the amount of the assessed valuation per pupil in the preceding school year of each district in the state;

(2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (1);

(3) identify the amount of the assessed valuation per pupil located at the 81.2 percentile of the amounts ranked under (2);

(4) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3);

(5) subtract the ratio obtained under (4) from 1.0. If the resulting ratio equals or exceeds 1.0, the eligibility of the district for entitlement to supplemental general state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive supplemental general state aid in an amount which shall be determined by the state board by multiplying the amount of the local ~~option~~ operating budget of the district by such ratio. The product is the amount of supplemental general state aid the district is entitled to receive for the school year.

(b) If the amount of appropriations for supplemental general state aid is less than the amount each district is entitled to receive for the school year, the state board shall prorate the amount appropriated among the districts in proportion to the amount each district is entitled to receive.

(c) The state board shall prescribe the dates upon which the distribution of payments of supplemental general state aid to school districts shall be due. Payments of supplemental general state aid shall be distributed to districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the district. Upon receipt of the warrant, the treasurer of the district shall credit the amount thereof to the supplemental general fund of the district to be used for the purposes of such fund.

(d) If any amount of supplemental general state aid that is due to be paid during the month of June of a school year pursuant to the other provisions of this section is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of supplemental general state aid that is due to be paid during the month of June of a school year and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

(e) (1) Except as provided by paragraph (2), moneys received as supplemental

general state aid shall be used to meet the requirements under the school performance accreditation system adopted by the state board, to provide programs and services required by law and to improve student performance.

(2) Amounts of supplemental general state aid attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local ~~option~~ operating budget in excess of 25%.

(f) For the purposes of determining the total amount of state moneys paid to school districts, all moneys appropriated as supplemental general state aid shall be deemed to be state moneys for educational and support services for school districts.

Sec. 9. K.S.A. 2012 Supp. 72-6435 is hereby amended to read as follows: 72-6435. (a) In each school year, the board of every district ~~that has adopted a local option budget may~~ shall levy an ad valorem tax on the taxable tangible property of the district for the purpose of: (1) Financing that portion of the district's local ~~option~~ operating budget which is not financed from any other source provided by law; (2) paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district; and (3) funding transfers to the capital improvement fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local ~~option~~ operating budget in excess of 25% of state financial aid determined for the current school year.

(b) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the supplemental general fund of the district.

(c) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments to such sections.

Sec. 10. K.S.A. 2012 Supp. 72-6441 is hereby amended to read as follows: 72-6441. (a) (1) The board of any district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of costs directly attributable to commencing operation of one or more new school facilities and the amount that is financed from any other source provided by law for such purpose, including any amount attributable to assignment of school facilities weighting to enrollment of the district for each school year in which the district is eligible for such weighting. If the district is not eligible, or will be ineligible, for school facilities weighting in any one or more years during the two-year period for which the district is authorized to levy a tax under this subsection, the state court of tax appeals may authorize the district to make a levy, in such year or years of ineligibility, which will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the

facility or facilities.

(2) The state court of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(3) The state court of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this subsection, including rules and regulations relating to the evidence required in support of a district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(4) The provisions of this subsection apply to any district that: (A) Commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year or any or all of the foregoing; (B) is authorized to adopt and has adopted a local ~~option~~ operating budget which is at least equal to that amount required to qualify for school facilities weighting under K.S.A. 2012 Supp. 72-6415b, and amendments thereto; and (C) is experiencing extraordinary enrollment growth as determined by the state board of education.

(b) The board of any district that has levied an ad valorem tax on the taxable tangible property of the district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed three years in an amount not to exceed the amount computed by the state board of education as provided in this subsection if the board of the district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the district. The tax authorized under this subsection may be levied at a rate which will produce an amount that is not greater than the amount computed by the state board of education as provided in this subsection. In computing such amount, the state board shall: (1) Determine the amount produced by the tax levied by the district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of general state aid directly attributable to school facilities weighting that was received by the district in the same year; (2) compute 75% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the first year of the three-year period for which the district may levy a tax under authority of this subsection; (3) compute 50% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the second year of the three-year period for which the district may levy a tax under authority of this subsection; and (4) compute 25% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the third year of the three-year period for which the district may levy a tax under authority of this subsection.

In determining the amount produced by the tax levied by the district under authority of subsection (a), the state board shall include any moneys which have been apportioned to the ancillary facilities fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(c) The proceeds from the tax levied by a district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school

district finance fund.

Sec. 11. K.S.A. 72-6444 is hereby amended to read as follows: 72-6444. (a) In each school year, commencing with the 1997-98 school year, the state board shall compute a district prescribed percentage for the purpose of determining the amount of a local ~~option~~ operating budget the board of a district to which the provisions of this section apply may adopt for the school year. The district prescribed percentage for each district to which the provisions of this section apply shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the actual amount per pupil for the preceding school year of the general fund budget and the local ~~option~~ operating budget, if any, of each district;

(2) compute the average amount per pupil for the preceding school year of general fund budgets and local ~~option~~ operating budgets of districts with 75-125 enrollment in such school year;

(3) compute the average amount per pupil for the preceding school year of general fund budgets and local ~~option~~ operating budgets of districts with 200-399 enrollment in such school year;

(4) compute the average amount per pupil for the preceding school year of general fund budgets and local ~~option~~ operating budgets of districts with 1,800 or over enrollment in such school year;

(5) compute an average amount per pupil for the preceding school year of general fund budgets and local ~~option~~ operating budgets of districts with 100-299.9 enrollment in such school year by preparing a schedule based upon an accepted mathematical formula and deriving an amount for each such district from a linear transition between the average amount per pupil computed under (2) and the average amount per pupil computed under (3);

(6) compute an average amount per pupil for the preceding school year of general fund budgets and local ~~option~~ operating budgets of districts with 300-1,799.9 enrollment in such school year by preparing a schedule based upon an accepted mathematical formula and deriving an amount for each such district from a linear transition between the average amount per pupil computed under (3) and the average amount per pupil computed under (4);

(7) for districts with 0-99.9 enrollment, compare the amount determined for the district under (1) to the average amount computed under (2). If the amount determined under (1) is equal to or greater than the average amount computed under (2), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (2), subtract the amount determined under (1) from the amount computed under (2), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district;

(8) for districts with 100-299.9 enrollment, compare the amount determined for the district under (1) to the average amount computed under (5). If the amount determined under (1) is equal to or greater than the average amount computed under (5), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (5), subtract the amount determined under (1) from the amount computed under (5), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state

financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district;

(9) for districts with 300-1,799.9 enrollment, compare the amount determined for the district under (1) to the average amount computed under (6). If the amount determined under (1) is equal to or greater than the average amount computed under (6), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (6), subtract the amount determined under (1) from the amount computed under (6), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district;

(10) for districts with 1,800 or over enrollment, compare the amount determined for the district under (1) to the average amount computed under (4). If the amount determined under (1) is equal to or greater than the average amount computed under (4), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (4), subtract the amount determined under (1) from the amount computed under (4), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district.

(b) The provisions of this section apply to any district that budgeted an amount per pupil in the preceding school year, as determined under provision (1) of subsection (a), that was less than the average amount per pupil of general fund budgets and local ~~option~~ operating budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) is applicable to the district's enrollment group.

(c) For the purposes of this section, the term "local operating budget" means "local option budget" as that term was used prior to the amendment of this section by this act.

Sec. 12. K.S.A. 2012 Supp. 72-6449 is hereby amended to read as follows: 72-6449. (a) As used in this section, "school district" or "district" means a school district authorized to make a levy under this section.

(b) The board of education of any district may levy a tax on the taxable tangible property within the district for the purpose of financing the costs incurred by the state that are attributable directly to assignment of the cost of living weighting to the enrollment of the district. There is hereby established in every school district a fund which shall be called the cost of living fund, which fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. All moneys derived from a tax imposed pursuant to this section shall be credited to the cost of living fund. The proceeds from the tax levied by a district credited to the cost of living fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(c) The state board of education shall determine whether a district may levy a tax under this section as follows:

(1) Determine the statewide average appraised value of single family residences for the calendar year preceding the current school year;

(2) multiply the amount determined under (1) by 1.25;

(3) determine the average appraised value of single family residences in each school district for the calendar year preceding the current school year; and

(4) (A) subtract the amount determined under (2) from the amount determined under (3). If the amount determined for the district under this paragraph is a positive number and the district is authorized to adopt and has adopted a local ~~option~~ operating budget in an amount equal to at least 31% of the state financial aid for the school district, the district qualifies for assignment of cost of living weighting and may levy a tax on the taxable tangible property of the district for the purpose of financing the costs that are attributable directly to assignment of the cost of living weighting to enrollment of the district; or

(B) as an alternative to the authority provided in paragraph (4)(A), if a district was authorized to make a levy pursuant to this section in school year 2006-2007, such district shall remain authorized to levy such tax at a rate necessary to generate revenue in the same amount generated in school year 2006-2007 if: (i) The amount determined under paragraph (4)(A) is a positive number; and (ii) the district continues to adopt a local ~~option~~ operating budget in an amount equal to the state prescribed percentage in effect in school year 2006-2007.

(d) No tax may be levied under this section unless the board of education adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the district. Except as provided by subsection (e), the resolution shall be published in substantial compliance with the following form:

Unified School District No._____,

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the assignment of cost of living weighting to the enrollment of the district. The ad valorem tax authorized by this resolution may be levied unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall be authorized in accordance with the provisions of this resolution to the electors of the school district at the next general election of the school district, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the ____ day of _____, (year)____.

_____
Clerk of the board of education.

All of the blanks in the resolution shall be filled. If no petition as specified above is filed in accordance with the provisions of the resolution, the resolution authorizing the ad valorem tax levy shall become effective. If a petition is filed as provided in the

resolution, the board may notify the county election officer to submit the question of whether such tax levy shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and of no force and effect and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If a majority of the votes cast in an election conducted pursuant to this provision are in favor of the resolution, such resolution shall be effective on the date of such election. If a majority of the votes cast are not in favor of the resolution, the resolution shall be deemed of no effect and no like resolution shall be adopted by the board within the nine months following such election.

(e) In determining the amount produced by the tax levied by the district under the authority of this section, the state board shall include any moneys which have been apportioned to the cost of living fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

Sec. 13. K.S.A. 2012 Supp. 72-6451 is hereby amended to read as follows: 72-6451. (a) As used in this section:

(1) "School district" or "district" means a school district which: (A) Has a declining enrollment; and (B) has adopted a local ~~option~~ operating budget in an amount which equals at least 31% of the state financial aid for the school district at the time the district applies to the state court of tax appeals for authority to make a levy pursuant to this section.

(2) "Declining enrollment" means an enrollment which has declined in amount from that of the preceding school year.

(b) (1) (A) A school district may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of declining enrollment weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the amount of revenues lost as a result of the declining enrollment of the district. Such amount shall not exceed 5% of the general fund budget of the district in the school year in which the district applies to the state court of tax appeals for authority to make a levy pursuant to this section.

(B) As an alternative to the authority provided in paragraph (1)(A), if a district was authorized to make a levy pursuant to this section in school year 2006-2007, such district shall remain authorized to make a levy at a rate necessary to generate revenue in the same amount that was generated in school year 2007-2008 if the district adopts a local ~~option~~ operating budget in an amount equal to the state prescribed percentage in effect in school year 2006-2007.

(2) The state court of tax appeals shall certify to the state board the amount authorized to be produced by the levy of a tax under this section.

(3) The state board shall prescribe guidelines for the data that school districts shall include in cases before the state court of tax appeals pursuant to this section.

(c) A district may levy the tax authorized pursuant to this section for a period of time not to exceed two years unless authority to make such levy is renewed by the state court of tax appeals. The state court of tax appeals may renew the authority to make such levy for periods of time not to exceed two years.

(d) The state board shall provide to the state court of tax appeals such school data

and information requested by the state court of tax appeals and any other information deemed necessary by the state board.

(e) There is hereby established in every district a fund which shall be called the declining enrollment fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The proceeds from the tax levied by a district under authority of this section shall be credited to the declining enrollment fund of the district. The proceeds from the tax levied by a district credited to the declining enrollment fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(f) In determining the amount produced by the tax levied by the district under authority of this section, the state board shall include any moneys which have been apportioned to the declining enrollment fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

Sec. 14. K.S.A. 2012 Supp. 72-6456 is hereby amended to read as follows: 72-6456. (a) For the purpose of determining the general fund budget of a school district, weightings shall not be assigned to a pupil enrolled in and attending KAMS.

(b) Moneys in the general fund which are attributable to a pupil enrolled in and attending KAMS shall not be included in the computation of the local ~~option~~ operating budget of the school district.

(c) The provisions of this section shall be part of and supplemental to the school district finance and quality performance act.

Sec. 15. K.S.A. 72-6444 and K.S.A. 2012 Supp. 72-978, 72-978a, 72-6409, 72-6410, 72-6415b, 72-6433, 72-6433d, 72-6434, 72-6435, 72-6441, 72-6449, 72-6451 and 72-6456 are hereby repealed.";

And by redesignating sections accordingly;

On page 1, in the title, in line 1, by striking all after "to"; by striking all in line 2; in line 3, by striking all before the period and inserting "school finance; amending K.S.A. 72-6444 and K.S.A. 2012 Supp. 72-978, 72-6409, 72-6410, 72-6415b, 72-6433, 72-6433d, 72-6434, 72-6435, 72-6441, 72-6449, 72-6451 and 72-6456 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 72-978a";

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

WARD CASSIDY
AMANDA GROSSERODE
Conferees on part of House

STEVE E. ABRAMS
TOM ARPKE
Conferees on part of Senate

On motion of Rep. Cassidy, the conference committee report on **SB 171** was adopted.

On roll call, the vote was: Yeas 63; Nays 57; Present but not voting: 0; Absent or not voting: 5.

Yeas: Barker, Bideau, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Claeys, Corbet, Crum, DeGraaf, Dove, Edwards, Esau, Gandhi,

Garber, Goico, Grosserode, Hawkins, Hedke, Hermanson, Highland, Hildabrand, Hoffman, Houser, Howell, Huebert, Hutton, Johnson, Jones, Kahrs, Kelley, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, O'Brien, Peck, Petty, Powell, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schwab, Seiwert, Shultz, Siegfreid, Suellentrop, Sutton, Thimesch, Todd, Vickrey, Weber.

Nays: Alcala, Alford, Ballard, Becker, Boldra, Bollier, Bridges, Burroughs, Carlin, Cassidy, Christmann, Clayton, Concannon, Davis, Dierks, Dillmore, Doll, Edmonds, Ewy, Finney, Frownfelter, Gonzalez, Grant, Henderson, Henry, Hibbard, Hill, Hineman, Houston, Jennings, Kelly, Kuether, Lane, Lusk, Meier, Menghini, Moxley, Pauls, Perry, Phillips, Proehl, Rooker, Ruiz, Schroeder, Schwartz, Sloan, Sloop, Swanson, Trimmer, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 122** 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 25 and inserting:

"Section 1. K.S.A. 25-2422 is hereby amended to read as follows: 25-2422. (a) Unauthorized voting disclosure is, while being charged with any election duty, intentionally:

~~(a)~~(1) Disclosing or exposing the contents of any ballot ~~or the manner in which the ballot has been voted~~, whether cast in a regular or provisional manner, or the name of any voter who cast such ballot, except as ordered by a court of competent jurisdiction~~.~~ in an election contest pursuant to K.S.A. 25-1434 et seq., and amendments thereto; or

~~(b)~~(2) ~~endeavoring to induce~~ inducing or attempting to induce any voter to show how the voter marks or has marked the voter's ballot.

(b) The name of any voter who has cast a ballot shall not be disclosed from the time the ballot is cast until the final canvass of the election by the county board of canvassers.

(c) Nothing in this section shall prohibit the disclosure of the names of persons who have voted advance ballots.

(d) Nothing in this section shall prohibit authorized poll agents from observing elections as authorized by K.S.A. 25-3004, 25-3005 and 25-3005a, and amendments thereto.

(e) Unauthorized voting disclosure is a severity level 10, nonperson felony.

Sec. 2. K.S.A. 25-2422 is hereby repealed.";

Also on page 1, in the title, in line 1, by striking all after "concerning"; in line 2 by striking "order or notice;" and inserting "elections; relating to unauthorized voting disclosures;"; also in line 2, by striking "2012 Supp. 77-531" and inserting "25-2422";

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

LANCE KINZER
ROB BRUCHMAN
Conferees on part of House

JEFF KING
GREG SMITH
Conferees on part of Senate

On motion of Rep. Kinzer, the conference committee report on **SB 122** was adopted.

On roll call, the vote was: Yeas 89; Nays 31; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, Moxley, O'Brien, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Bridges, Burroughs, Carlin, Davis, Dillmore, Finney, Frownfelter, Grant, Henderson, Henry, Houston, Kuether, Lane, Lusk, Meier, Menghini, Pauls, Perry, Ruiz, Schroeder, Sloop, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2339** submits the following report:

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

On page 5, following line 14, by inserting:

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

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

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

deceased law enforcement officer;

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

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

(b) For the purposes of this section:

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

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

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

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

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

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

Sec. 3. K.S.A. 2012 Supp. 40-1709 is hereby amended to read as follows: 40-1709. (a) (1) Except as provided in ~~paragraphs (2) and (3)~~ paragraph (2), whenever a municipality provides for the payment of premiums for any health benefit plan for its firefighters, it shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of a firefighter who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

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

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

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

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

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

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

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

(b) For the purposes of this section:

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

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

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

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

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

4903. (a) Unless denied licensure pursuant to K.S.A. 2012 Supp. 40-4909, and amendments thereto, any person who meets the requirements of K.S.A. 2012 Supp. 40-4905, and amendments thereto, shall be issued an insurance agent license. An insurance agent may receive qualifications for a license in one or more of the following lines of authority:

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

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

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

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

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

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

(7) Credit — limited line credit insurance.

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

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

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

(A) Interruption or cancellation of trip or event;

(B) loss of baggage or personal effects;

(C) damages to accommodations or rental vehicles; or

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

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

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

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

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

agent's biennial due date.

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

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

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

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

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

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

(d) On and after the effective date of this act, each individual insurance agent who holds a license with both a property or casualty qualification, or both, and a life, accident and health or variable contracts qualification, or any combination thereof, and who ~~earn~~ earns C.E.C.'s from courses certified by the commissioner as qualifying for credit in any class, may apply, at such insurance agent's option, such C.E.C.'s toward either the property or casualty continuing education requirement or to the life, accident and health or variable contracts continuing education requirement. However, no C.E.C. shall be applied to satisfy both the biennial property or casualty requirement, or both, and the biennial requirement for life, accident and health or variable contracts, or any combination thereof.

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

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

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

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

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

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

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

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

the end of the period of inactivity. For issuance of a new license, the individual shall apply for a license and pass the required examination.

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

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

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

(A) The name of provider or provider organization;

(B) the title of such course, program of study or subject;

(C) the date the course, program of study or subject will be offered;

(D) the location where the course, program of study or subject will be offered;

(E) an outline of each course, program of study or subject including a schedule of times when such material will be presented;

(F) the names and qualifications of instructors;

(G) the number of C.E.C.'s requested; ~~and~~

(H) a nonrefundable C.E.C. qualification fee in the amount of $50 per course, program of study or subject or $250 per year for all courses, programs of study or subjects submitted by a specific provider or provider organization; and

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

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

(A) Property and casualty; or

(B) life insurance ~~(~~, including annuity and variable contracts~~)~~, and accident and health insurance.

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

(5) Each provider seeking approval of a course, program of study or subject for continuing education credit shall issue or cause to be issued to each person who attends a course, program of study or subject offered by such provider a certificate of attendance. The certificate shall be signed by either the instructor who presents the course, program of study or course or such provider's authorized representative. Each provider shall maintain a list of all individuals who attend courses offered by such provider for continuing education credit for the remainder of the biennium in which the courses are offered and the entire next succeeding biennium.

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

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

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

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

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

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

And by renumbering sections accordingly;

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

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

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

ROB OLSON
JEFF LONGBINE
TOM HAWK
Conferees on part of Senate

CLARK SHULTZ
PHIL HERMANSON
GAIL FINNEY
Conferees on part of House

On motion of Rep. Shultz to adopt the conference committee report on **HB 2339**,

Rep. Peck offered a substitute motion to not adopt the conference committee report and that a new conference committee be appointed.

Rep. Rooker rose on a point of order, under House Rule 108, citing Joint Rule 3 and that the report contained a bill not passed by either Chamber. The Rules Vice-Chair ruled the conference committee report was in order because the bill was passed by the Senate in this conference committee report.

The question reverted back to the substitute motion of Rep. Peck, which did not prevail.

The question then reverted back to the original motion of Rep. Shultz and the conference committee report was adopted.

On roll call, the vote was: Yeas 116; Nays 4; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Dove, Peck, Schwab, Sutton.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

The House stood at ease until the sound of the gavel.

Speaker pro tem Mast called the House to order.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2017** submits the following report:

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

On page 5, following line 40, by inserting:

"New Sec. 7. (a) As used in this section:

(1) "Nudity" means the showing, unclothed or with less than a fully opaque covering, of the human male or female genitals, pubic area, buttocks or female breast below a point immediately above the top of the areola.

(2) "Pornographic materials" means sexual devices or books, magazines,

periodicals or other printed matter, photographs, films, motion pictures, video presentations, computer-generated images or pictures, slides or other visual representations, whether made or produced by electronic, mechanical or other means, which depict, describe or simulate sexually explicit conduct or nudity.

(3) "Sexually explicit conduct" means acts of masturbation, sexual intercourse, sodomy, sadomasochistic abuse or physical contact with a person's clothed or unclothed genitals, pubic area or buttocks or with a human female's breast.

(4) "Sexually violent crime" means the same as in K.S.A. 22-4902, and amendments thereto.

(b) The Kansas bureau of investigation will work with the office of the attorney general and with state and local law enforcement to identify a process to uniformly report data to the central repository enabling the production of a report generated at least annually to identify the total number of sexually violent crimes reported and the number of such crimes where pornographic materials are seized or documented as evidence. This process shall be in place within one year of the implementation of a capable central repository system.

(c) Reports of materials found pursuant to the provisions of subsection (b) shall be used for statistical purposes only.

(d) Upon implementation of a central repository system, the Kansas bureau of investigation shall:

(1) Make the necessary changes to the Kansas standard offense report and the Kansas incident based reporting system handbook; and

(2) promulgate rules and regulations concerning the training for law enforcement agencies to implement the provisions of this section.

(e) Nothing in this section shall be construed to expand the scope of the officer's search.

(f) The provisions of this section are subject to appropriations.";

And by redesignating sections accordingly;

On page 1, in the title, in line 3, after "warrants;" by inserting "sexually violent crimes; law enforcement reports on the presence of pornographic materials;";

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

JEFF KING
GREG SMITH
DAVID HALEY
Conferees on part of Senate

LANCE KINZER
ROB BRUCHMAN
JANICE L. PAULS
Conferees on part of House

On motion of Rep. Kinzer, the conference committee report on **Sub HB 2017** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2093** submits the following report:

The Senate recedes from all of its amendments to the bill, and your committee on conference further agrees to amend the bill, as introduced, as follows:

On page 1, following line 6, by inserting:

"Section 1. K.S.A. 21-2512 is hereby amended to read as follows: 21-2512. (a) Notwithstanding any other provision of law, a person in state custody, at any time after conviction for murder in the first degree as defined by K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, or for rape as defined by K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, may petition the court that entered the judgment for forensic DNA testing (deoxyribonucleic acid testing) of any biological material that:

(1) Is related to the investigation or prosecution that resulted in the conviction;

(2) is in the actual or constructive possession of the state; and

(3) was not previously subjected to DNA testing, or can be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

(b) (1) The court shall notify the prosecuting attorney of a petition made under subsection (a) and shall afford the prosecuting attorney an opportunity to respond.

(2) Upon receiving notice of a petition made under subsection (a), the prosecuting attorney shall take such steps as are necessary to ensure that any remaining biological material that was secured in connection with the case is preserved pending the completion of proceedings under this section.

(c) The court shall order DNA testing pursuant to a petition made under subsection (a) upon a determination that testing may produce noncumulative, exculpatory evidence relevant to the claim of the petitioner that the petitioner was wrongfully convicted or sentenced.

(d) The cost of DNA testing ordered under subsection (c) shall be borne by the state or the petitioner, as the court may order in the interests of justice, if it is shown that

the petitioner is not indigent and possesses the means to pay.

(e) The court may at any time appoint counsel for an indigent applicant under this section.

(f) (1) Except as provided in subsection (f)(3), if the results of DNA testing conducted under this section are unfavorable to the petitioner, the court:

(A) Shall dismiss the petition; and

(B) in the case of a petitioner who is not indigent, may assess the petitioner for the cost of such testing.

(2) If the results of DNA testing conducted under this section are favorable to the petitioner and are of such materiality that a reasonable probability exists that the new evidence would result in a different outcome at trial or sentencing, the court shall:

(A) Order a hearing, notwithstanding any provision of law that would bar such a hearing; and

(B) enter any order that serves the interests of justice, including, but not limited to, an order:

(i) Vacating and setting aside the judgment;

(ii) discharging the petitioner if the petitioner is in custody;

(iii) resentencing the petitioner; or

(iv) granting a new trial.

(3) If the results of DNA testing conducted under this section are inconclusive, the court may order a hearing to determine whether there is a substantial question of innocence. If the petitioner proves by a preponderance of the evidence that there is a substantial question of innocence, the court shall proceed as provided in subsection (f)(2).

(g) Nothing in this section shall be construed to limit the circumstances under which a person may obtain DNA testing or other postconviction relief under any other provision of law.

Sec. 2. K.S.A. 2012 Supp. 21-5402 is hereby amended to read as follows: 21-5402. (a) Murder in the first degree is the killing of a human being committed:

(1) Intentionally, and with premeditation; or

(2) in the commission of, attempt to commit, or flight from any inherently dangerous felony.

(b) Murder in the first degree is an off-grid person felony.

(c) As used in this section, an "inherently dangerous felony" means:

(1) Any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2):

(A) Kidnapping, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(B) aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(C) robbery, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5420, and amendments thereto;

(D) aggravated robbery, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5420, and amendments thereto;

(E) rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(F) aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012

Supp. 21-5504, and amendments thereto;

(G) abuse of a child, as defined in K.S.A. 2012 Supp. 21-5602, and amendments thereto;

(H) felony theft of property, as defined in subsection (a)(1) or (a)(3) of K.S.A. 2012 Supp. 21-5801, and amendments thereto;

(I) burglary, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto;

(J) aggravated burglary, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5807, and amendments thereto;

(K) arson, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5812, and amendments thereto;

(L) aggravated arson, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5812, and amendments thereto;

(M) treason, as defined in K.S.A. 2012 Supp. 21-5901, and amendments thereto;

(N) any felony offense as provided in K.S.A. 2012 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto;

(O) any felony offense as provided in subsection (a) or (b) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

(P) endangering the food supply, as defined in subsection (a) of K.S.A. 2012 Supp. 21-6317, and amendments thereto;

(Q) aggravated endangering the food supply, as defined in subsection (b) of K.S.A. 2012 Supp. 21-6317, and amendments thereto;

(R) fleeing or attempting to elude a police officer, as defined in subsection (b) of K.S.A. 8-1568, and amendments thereto;

(S) aggravated endangering a child, as defined in subsection (b)(1) of K.S.A. 2012 Supp. 21-5601, and amendments thereto;

(T) abandonment of a child, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5605, and amendments thereto; or

(U) aggravated abandonment of a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments thereto; and

(2) any of the following felonies, only when such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as to not be an ingredient of the homicide alleged to be a violation of subsection (a)(2):

(A) Murder in the first degree, as defined in subsection (a)(1);

(B) murder in the second degree, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-5403, and amendments thereto;

(C) voluntary manslaughter, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-5404, and amendments thereto;

(D) aggravated assault, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5412, and amendments thereto;

(E) aggravated assault of a law enforcement officer, as defined in subsection (d) of K.S.A. 2012 Supp. 21-5412, and amendments thereto;

(F) aggravated battery, as defined in subsection (b)(1) of K.S.A. 2012 Supp. 21-5413, and amendments thereto; or

(G) aggravated battery against a law enforcement officer, as defined in subsection (d) of K.S.A. 2012 Supp. 21-5413, and amendments thereto.

(d) Murder in the first degree as defined in subsection (a)(2) is an alternative

method of proving murder in the first degree and is not a separate crime from murder in the first degree as defined in subsection (a)(1). The provisions of K.S.A. 21-5109, and amendments thereto, are not applicable to murder in the first degree as defined in subsection (a)(2). Murder in the first degree as defined in subsection (a)(2) is not a lesser included offense of murder in the first degree as defined in subsection (a)(1), and is not a lesser included offense of capital murder as defined in K.S.A. 21-5401, and amendments thereto. As set forth in subsection (b) of K.S.A. 21-5109, and amendments thereto, there are no lesser included offenses of murder in the first degree under subsection (a)(2).

(e) The amendments to this section by this act establish a procedural rule for the conduct of criminal prosecutions and shall be construed and applied retroactively to all cases currently pending.";

And by renumbering sections accordingly;

On page 4, in line 19, before "K.S.A." by inserting "K.S.A. 21-2512 and"; also in line 19, following "Supp." by inserting "21-5402,";

On page 1, in the title, in line 2, by striking "relating to"; also in line 2, following the last semicolon by inserting "DNA evidence; felony murder; capital murder;"; in line 3, following "amending" by inserting "K.S.A. 21-2512 and"; also in line 3, following "Supp." by inserting "21-5402,";

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

JEFF KING
GREG SMITH
DAVID HALEY
Conferees on part of Senate

JOHN J. RUBIN
RAMON C. GONZALEZ, JR.
GAIL FINNEY
Conferees on part of House

On motion of Rep. Rubin, the conference committee report on **S Sub for HB 2093** was adopted.

On roll call, the vote was: Yeas 118; Nays 2; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Meier, Sutton.
Present but not voting: None.
Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 199** submits the following report:

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

On page 5, following line 4, by inserting:

"Sec. 7. K.S.A. 2012 Supp. 65-1636 is hereby amended to read as follows: 65-1636. (a) Except as otherwise provided in this act, the sale and distribution of drugs shall be limited to pharmacies operating under registrations as required by this act, and the actual sale or distribution of drugs shall be made by a pharmacist or other persons acting under the immediate personal direction and supervision of the pharmacist.

~~(b) The donation, acceptance, transfer, distribution or dispensing of any drug in compliance with the provisions of the cancer drug repository program established by K.S.A. 2012 Supp. 65-1664 through 65-1667, and amendments thereto, and any rules and regulations promulgated thereunder shall not constitute a violation of this section.~~

~~(c)~~ (b) The donation, acceptance, transfer, distribution or dispensing of any drug in compliance with the provisions of the utilization of unused medications act and any rules and regulations promulgated thereunder shall not constitute a violation of this section.

Sec. 8. K.S.A. 2012 Supp. 65-1669 is hereby amended to read as follows: 65-1669. As used in the utilization of unused medications act:

(a) "Adult care home" has the same meaning as such term is defined in K.S.A. 39-923, and amendments thereto.

(b) "Community mental health center" has the same meaning as such term is defined in K.S.A. 75-3307c, and amendments thereto.

(c) "Donating entities" means adult care homes, mail service pharmacies, institutional drug rooms and medical care facilities who elect to participate in the program.

(d) "Drug" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(e) "Federally qualified health center" means a center which meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of the public health service act, and amendments thereto, and which has been designated as a "federally qualified health center" by the federal government.

(f) "Indigent health care clinic" has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(g) "Institutional drug room" has the meaning as such term is defined in K.S.A. 65-1626(bb), and amendments thereto.

~~(g)~~ (h) "Mail service pharmacy" means a licensed Kansas pharmacy that ships, mails or delivers by any lawful means a lawfully dispensed medication in tamper-resistant packaging to residents of this state or another state.

~~(h)~~ (i) "Medical care facility" has the same meaning as such term is defined in

K.S.A. 65-425, and amendments thereto.

~~(i)~~ (j) "Medically indigent" has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

~~(j)~~ (k) "Medication" means a prescription drug or drug as defined by this section.

~~(k)~~ (l) "Mid-level practitioner" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

~~(l)~~ (m) "Practitioner" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

~~(m)~~ (n) "Prescription drug" means a drug which may be dispensed only upon prescription of a practitioner or mid-level practitioner authorized by law and which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the federal food, drug and cosmetic act ~~(~~, 52 Stat. 1040 (1938), 21 U.S.C.A. § 301~~), and amendments thereto~~.

~~(n)~~(o) "Qualifying center or clinic" means an indigent health care clinic, federally qualified health center or community mental health center.

(p) "Samples of medications or injectables" means a unit of drug that is not intended to be sold and is intended to promote the sale of the drug.

Sec. 9. K.S.A. 2012 Supp. 65-1670 is hereby amended to read as follows: 65-1670. (a) The board of pharmacy shall establish and implement a program consistent with public health and safety through which unused drugs~~, other than drugs defined as controlled substances,~~ may be transferred from donating entities that elect to participate in the program for the purpose of distributing the unused medications to Kansas residents who are medically indigent.

(b) A qualifying center or clinic in consultation with a pharmacist shall establish procedures necessary to implement the program established by the utilization of unused medications act.

(c) The state board of pharmacy shall provide technical assistance to entities who may wish to participate in the program.

Sec. 10. K.S.A. 2012 Supp. 65-1671 is hereby amended to read as follows: 65-1671. The following criteria shall be used in accepting unused medications for use under the utilization of unused medications act:

(a) The medications shall have come from a controlled storage unit of a donating entity;

(b) only medications in their original or pharmacist sealed unit dose packaging or in tamper evident packaging, unit of use or sealed, unused injectables, including samples of medications or injectables, shall be accepted and dispensed pursuant to the utilization of unused medications act;

(c) expired medications shall not be accepted;

(d) a medication shall not be accepted or dispensed if the person accepting or dispensing the medication has reason to believe that the medication is adulterated;

(e) no controlled substances shall be accepted~~; and~~, unless the state board of pharmacy designates certain controlled substances as accepted medications in the adoption of rules and regulations pursuant to K.S.A. 65-1674, and amendments thereto; and

(f) subject to the limitation specified in this section, unused medications dispensed for purposes of a medical assistance program or drug product donation program may be accepted and dispensed under the utilization of unused medications act.

Sec. 11. K.S.A. 2012 Supp. 65-1674 is hereby amended to read as follows: 65-1674. (a) The state board of pharmacy shall adopt rules and regulations ~~by December 1, 2008,~~ to implement the utilization of unused medications act. Such rules shall:

(1) Include standards and procedures for transfer, acceptance and safe storage of donated medications;

(2) include standards and procedures for inspecting donated medications to ensure that the medications are in compliance with the utilization of unused medications act and to ensure that, in the professional judgment of a pharmacist, the medications meet all federal and state standards for product integrity;

(3) establish standards and procedures for acceptance of unused medications from donating entities; ~~and~~

(4) establish standards and procedures for designating certain controlled substances as accepted donated medications;

(5) establish standards and procedures for a qualifying center or clinic to prepare any donated medications for dispensing or administering; and

(6) establish, in consultation with the department of health and environment and the Kansas department ~~on~~ for aging and disability services, any additional rules and regulations, and standards and procedures it deems appropriate or necessary to implement the provisions of the utilization of unused medications act.

(b) In accordance with the rules and regulations and procedures of the program established pursuant to this section, a resident of an adult care home, or the representative or guardian of a resident may donate unused medications~~, other than prescription drugs defined as controlled substances,~~ for dispensation to medically indigent persons.

Sec. 12. K.S.A. 2012 Supp. 65-1636, 65-1664, 65-1665, 65-1666, 65-1667, 65-1669, 65-1670, 65-1671 and 65-1674 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all following "concerning"; in line 2, by striking all before the period and inserting "health care; relating to stem cell therapy and unused medications; amending K.S.A. 2012 Supp. 65-1636, 65-1669, 65-1670, 65-1671 and 65-1674 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 65-1664, 65-1665, 65-1666 and 65-1667"

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

J. DAVID CRUM
BRIAN A. WEBER
Conferees on part of House

MARY PILCHER-COOK
ELAINE BOWERS
Conferees on part of Senate

On motion of Rep. Crum, the conference committee report on **SB 199** was adopted.

On roll call, the vote was: Yeas 90; Nays 30; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Barker, Becker, Bideau, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau,

Ewy, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, O'Brien, Pauls, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber, Whipple, Wolfe Moore.

Nays: Ballard, Bollier, Bridges, Burroughs, Carlin, Clayton, Davis, Dillmore, Finney, Frownfelter, Gandhi, Henderson, Hill, Hineman, Houston, Kuether, Lane, Lusk, Moxley, Perry, Rooker, Ruiz, Sloan, Sloop, Trimmer, Victors, Ward, Weigel, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Kelley, the House concurred in Senate amendments to **HB 2349**, AN ACT concerning legislative post audit committee; auditing unified school districts.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 118; Nays 2; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Dillmore, Ward.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

On motion of Rep. Suellentrop, the House concurred in Senate amendments to **HB 2069**, AN ACT concerning employer leave policies for employees; declaring certain city ordinances and county resolutions to be against public policy.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 88; Nays 32; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Becker, Bideau, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, DeGraaf, Dierks, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hermanson, Hibbard,

Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, Moxley, O'Brien, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Bollier, Bridges, Burroughs, Carlin, Davis, Dillmore, Doll, Finney, Frownfelter, Grant, Henderson, Henry, Houston, Kuether, Lane, Lusk, Meier, Menghini, Pauls, Perry, Ruiz, Sloop, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

On motion of Rep. Dillmore to concur in Senate amendments to **HB 2059**, the motion did not prevail, and the bill remains in conference.

On roll call, the vote was: Yeas 0; Nays 120; Present but not voting: 0; Absent or not voting: 5.

Yeas: None.

Nays: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

Request No. 90, by Representative Schwartz, congratulating Republic County USD 109 High School for receiving the Class 2A Boys State Basketball Championship for 2013;

Request No. 91, by Representative Seiwert, congratulating the Sedgwick County Electric Cooperative Association, Inc. for seventy-five years of service to their 5,314 members in the counties of Sedgwick, Reno, Kingman, Harvey and Sumner;

Request No. 92, by Representative Goico, commending Mark and Louise Allen for bringing the rules of basketball home to Kansas;

Request No. 93, by Representative Hawkins, congratulating Dustin Hawkins, Math

Teacher at Northeast Magnet High School, for being selected teacher of the year for 2013 by Albert Pike Masonic Lodge #303;

Request No. 94, by Representative Highland, congratulating the Wamego High School Lady Raider Basketball Team on being the State 4A State Champions;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Vickrey, the committee report was adopted

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

House Concurrent Resolution **No. 5018**

By Representative Goico

A CONCURRENT RESOLUTION honoring native Kansan, Army Chaplain Father Emil Kapaun, Medal of Honor winner.

WHEREAS, On April 11, President Barack Obama will award the Catholic priest, U.S. Army Chaplain and Korean War hero, the late Father Captain Emil J. Kapaun, the Medal of Honor for conspicuous gallantry, the nation's highest military honor; and

WHEREAS, Chaplain Kapaun will receive the Medal of Honor posthumously for his extraordinary heroism while serving with the 3rd Battalion, 8th Cavalry Regiment, 1st Cavalry Division in combat operations against Chinese communists at Unsan, Korea, and as a prisoner of war from November 2, 1950, until his death on May 23, 1951; and

WHEREAS, When the Chinese viciously attacked his unit at Unsan, Chaplain Kapaun moved fearlessly from foxhole to foxhole under direct enemy fire, providing comfort and first aid to his outnumbered comrades; and

WHEREAS, As the surrounding enemy closed in, U.S. officers ordered an evacuation, but Chaplain Kapaun elected to stay behind with the wounded, fully aware of his certain capture; and

WHEREAS, He repeatedly crawled to the wounded, dragging some to safety and digging shallow trenches for others to shield them from enemy fire; and

WHEREAS, As enemy forces approached the American position and hand-to-hand combat ensued, Father Kapaun noticed a wounded Chinese officer, and he convinced the wounded man to negotiate the safe surrender of the American forces; and

WHEREAS, Following their capture, Father Kapaun and his fellow prisoners marched for several days northward toward prisoner-of-war camps. He refused to take a break from carrying stretchers for the wounded while encouraging others to do their part; and

WHEREAS, Shortly after his capture, Chaplain Kapaun bravely pushed aside an enemy soldier preparing to execute a comrade, thus saving a life and inspiring others; and

WHEREAS, At the prison camp, POWs were forced to live in cabins with no heat, where the water was contaminated and the food was scarce; and

WHEREAS, After dark, Chaplain Kapaun would slip out of his cabin to steal food and medical supplies from the guards' storehouse. Before he went out on these raids, he prayed to St. Dismas, the thief who was crucified with Jesus and repented as he hung dying on his cross — Catholics venerate St. Dismas as the patron saint of reformed thieves; and

WHEREAS, Father Kapaun turned scrap tin into pots so he and his fellow POWs could boil their drinking water, thus reducing the risk of dysentery; and

WHEREAS, He picked ice off sick and dying men who were too weak to care for themselves. He encouraged his fellow POWs not to despair. However, the harsh living conditions in the camp eventually caught up with the heroic priest who died in the camp, suffering from chronic dysentery, pneumonia, and a blood clot in one leg, which had made it almost impossible for him to walk; and

WHEREAS, In 1993, the Catholic Church formally initiated his cause for sainthood and upon approval from the Congregation for the Causes of Saints, Father Kapaun was designated a Servant of God; and

WHEREAS, The Diocese of Wichita and the Archdiocese for the Military Services (AMS) have received reports of miracles involving Father Kapaun, including accounts by some of his fellow prisoners of war; and

WHEREAS, The Diocese of Wichita, is gathering information to determine what, if any, miracles can be attributed to Father Kapaun that would indicate that he should be beatified; and

WHEREAS, Father Kapaun is also being considered for possible designation as a martyr for the faith, which would allow him to be beatified without performing a miracle; and

WHEREAS, Chaplain Kapaun was born in 1916 on a farm outside Pilsen, Kansas, in Marion County; and

WHEREAS, Chaplain Kapaun was ordained a Roman Catholic priest in 1940 and celebrated his first mass at his home parish in Pilsen at St. John Nepomucene Church; and

WHEREAS, Chaplain Kapaun also served in the Army Chaplain Corps in World War II; and

WHEREAS, Kapaun Mt. Carmel High School in Wichita, Kansas is named in honor of Chaplain Kapaun: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That Army Chaplain Father Emil J. Kapaun, Medal of Honor winner be recognized for his acts of extraordinary bravery and for his bringing great honor on his home state of Kansas and all of its people; and

Be it further resolved: That the Secretary of State shall provide an enrolled copy of this resolution to Bishop Michael Jackels, Diocese of Wichita.

MESSAGES FROM THE SENATE

The Senate adopts the Conference Committee report on **S Sub for HB 2052**.

The Senate adopts the Conference Committee report on **Sub HB 2105**.

The Senate adopts the Conference Committee report on **HB 2253**.

Also, the Senate adopts the Conference Committee report on **SB 124**.

The Senate adopts the Conference Committee report on **SB 129**.

The Senate adopts the Conference Committee report on **SB 187**.
The Senate adopts the Conference Committee report on **HB 2015**.
The Senate adopts the Conference Committee report on **Sub HB 2183**.
The Senate adopts the Conference Committee report on **HB 2234**.

On motion of Rep. Vickrey, the House recessed until 8:45 p.m.

EVENING SESSION

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

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 102** 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;

On page 2, by striking all in lines 1 through 4 and inserting:

"Section 1. Sections 1 through 11, and amendments thereto, may be cited as the second amendment protection act.

Sec. 2. The legislature declares that the authority for sections 1 through 11, and amendments thereto, is the following:

(a) The tenth amendment to the constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Kansas certain powers as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those powers is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(b) The ninth amendment to the constitution of the United States guarantees to the people rights not granted in the constitution and reserves to the people of Kansas certain rights as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those rights is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(c) The second amendment to the constitution of the United States reserves to the people, individually, the right to keep and bear arms as that right was understood at the time that Kansas was admitted to statehood in 1861, and the guaranty of that right is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(d) Section 4 of the bill of rights of the constitution of the state of Kansas clearly secures to Kansas citizens, and prohibits government interference with, the right of individual Kansas citizens to keep and bear arms. This constitutional protection is

unchanged from the constitution of the state of Kansas, which was approved by congress and the people of Kansas, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

Sec. 3. As used in sections 1 through 11, and amendments thereto, the following definitions apply:

(a) "Borders of Kansas" means the boundaries of Kansas described in the act for admission of Kansas into the union, 12 stat. 126, ch. 20, § 1.

(b) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including, but not limited to, telescopic or laser sights, magazines, flash or sound suppressors, collapsible or adjustable stocks and grips, pistol grips, thumbhole stocks, speedloaders, ammunition carriers and lights for target illumination.

(c) "Manufacture" means to assemble using multiple components to create a more useful finished product.

Sec. 4. (a) A personal firearm, a firearm accessory or ammunition that is manufactured commercially or privately and owned in Kansas and that remains within the borders of Kansas is not subject to any federal law, treaty, federal regulation, or federal executive action, including any federal firearm or ammunition registration program, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory or ammunition that is manufactured commercially or privately and owned in the state of Kansas.

(b) Component parts are not firearms, firearms accessories or ammunition, and their importation into Kansas and incorporation into a firearm, a firearm accessory or ammunition manufactured and owned in Kansas does not subject the firearm, firearm accessory or ammunition to federal regulation. It is declared by the legislature that such component parts are not firearms, firearms accessories or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories and ammunition under interstate commerce as if they were actually firearms, firearms accessories or ammunition.

(c) Firearms accessories that are imported into Kansas from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Kansas.

Sec. 5. A firearm manufactured in Kansas within the meaning of sections 1 through 11, and amendments thereto, must have the words "Made in Kansas" clearly stamped on a central metallic part, such as the receiver or frame.

Sec. 6. (a) Any act, law, treaty, order, rule or regulation of the government of the United States which violates the second amendment to the constitution of the United States is null, void and unenforceable in the state of Kansas.

(b) No official, agent or employee of the state of Kansas, or any political subdivision thereof, shall enforce or attempt to enforce any act, law, treaty, order, rule or regulation of the government of the United States regarding any personal firearm, firearm accessory or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas.

Sec. 7. It is unlawful for any official, agent or employee of the government of the

United States, or employee of a corporation providing services to the government of the United States to enforce or attempt to enforce any act, law, treaty, order, rule or regulation of the government of the United States regarding a firearm, a firearm accessory, or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas. Violation of this section is a severity level 10 nonperson felony. Any criminal prosecution for a violation of this section shall be commenced by service of complaint and summons upon such official, agent or employee. Such official, agent or employee shall not be arrested or otherwise detained prior to, or during the pendency of, any trial for a violation of this section.

Sec. 8. A county or district attorney, or the attorney general, may seek injunctive relief in any court of competent jurisdiction to enjoin any official, agent or employee of the government of the United States or employee of a corporation providing services to the government of the United States from enforcing any act, law, treaty, order, rule or regulation of the government of the United States regarding a firearm, a firearm accessory, or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas.

Sec. 9. Sections 1 through 11, and amendments thereto, do not apply to: (a) A firearm that cannot be carried and used by one person;

(b) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or

(c) other than shotguns, a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

Sec. 10. Sections 1 through 11, and amendments thereto, apply to firearms, firearms accessories and ammunition that are manufactured, as defined in section 3, and amendments thereto, owned and remain within the borders of Kansas on and after October 1, 2009.

Sec. 11. If any provision of sections 1 through 10, and amendments thereto, or the application to any persons or circumstances is held to be invalid, such invalidity shall not affect the other provisions or application of sections 1 through 10, and amendments thereto, and to this end the provisions of section 1 through 10, and amendments thereto, are declared to be severable.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.";

On page 1, in the title, in line 1 by striking all after "ACT"; by striking all in lines 2 and 3 and inserting "enacting the second amendment protection act.";

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

ARLEN SIEGFREID
STEVEN R. BRUNK
Conferees on part of House

RALPH OSTMEYER
JAY SCOTT EMLER
Conferees on part of Senate

On motion of Rep. Siegfreid to adopt the conference committee report on **SB 102**, Rep. Becker offered a substitute motion to not adopt the conference committee report

and that a new conference committee be appointed.

Roll call was demanded.

On roll call, the vote was: Yeas 30; Nays 90; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barker, Becker, Bideau, Bollier, Bridges, Burroughs, Carlin, Clayton, Davis, Dierks, Finney, Henderson, Hill, Houston, Kuether, Lusk, Perry, Phillips, Rooker, Ruiz, Sloop, Swanson, Trimmer, Victors, Ward, Weigel, Wilson, Winn, Wolfe Moore.

Nays: Alcala, Alford, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, DeGraaf, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lane, Lunn, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Petty, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Thimesch, Todd, Vickrey, Waymaster, Weber, Whipple.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

The motion of Rep. Becker did not prevail

The question reverted back to the original motion of Rep. Siegfreid and the conference committee report on **SB 102** was adopted.

On roll call, the vote was: Yeas 96; Nays 24; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Bideau, Boldra, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Frownfelter, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lane, Lunn, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Waymaster, Weber, Whipple.

Nays: Barker, Becker, Bollier, Bridges, Carlin, Clayton, Dillmore, Finney, Gandhi, Henderson, Hill, Houston, Kuether, Lusk, Perry, Rooker, Ruiz, Sloop, Victors, Ward, Weigel, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

EXLANATIONS OF VOTE

MR. SPEAKER: **SB 102** protects individual Kansans rights to keep and bear Kansas-made firearms free of federal government interference and declares such federal interference unconstitutional because Kansas-made firearms and accessories remaining

within Kansas borders are not in interstate commerce. This bill only proscribes enforcement of federal laws regarding firearms, not the use of firearms by felons. This bill does not prevent prosecution of any persons with criminal histories or felonious actions involving firearms. Under the Second and Tenth Amendments to the United States Constitution and Section 4 of the Kansas Bill of Rights, **SB102** proclaims Kansas sovereignty under the Second and Tenth Amendments.

I proudly vote yes on the conference committee report on **SB 102**. – JIM HOWELL, KEN CORBET, RONALD L. HIGHLAND, HAROLD LANE, JOHN ALCALA, BRETT HILDEBRAND, MARSHALL CHRISTMANN, III, REID PETTY, BRIAN WEBER, DANIEL HAWKINS, KEITH ESAU, RAMON C. GONZALEZ, JR., LARRY HIBBARD, BILL SUTTON, CONNIE O'BRIEN, MARTY READ, JOHN J. RUBIN, CHARLES MACHEERS, PHIL HERMANSON, KASHA KELLEY, TRAVIS COUTURE-LOVELADY, WILLIE DOVE, RICHARD CARLSON, MARVIN KLEEB, DAVID CRUM, PETE DEGRAAF, JOE EDWARDS, JOHN BRADFORD, DENNIS HEDKE, JOSH POWELL, STEVEN R. BRUNK, ARLEN H. SIEGFREID, JOHN EDMONDS, AMANDA GROSSERODE, RANDY GARBER

MR. SPEAKER: I served for many years as a Federal law enforcement officer, with a sworn duty to protect and serve. I have also served as a state court judge for many, many years. I supported a motion to change the bill to convert criminal prosecution of Federal officers doing their duty to civil restraining orders and injunctions. I fully support our state sovereignty and our 2nd Amendment rights, but I cannot support prosecution of a law enforcement officer doing his sworn duty. I vote no on **SB 102**. – JOHN BARKER

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT AND MR. SPEAKER: Your committee on conference on House amendments to **SB 23** submits the following report:

The House recedes from all of its amendments to the bill, and your committee on conference further agrees to amend the bill as introduced, as follows:

On page 1, following line 5, by inserting:

"New Section 1. The director of budget and the director of legislative research shall jointly certify to the secretary of state that the aggregate amount of appropriations for the school district capital outlay state aid fund is equal to 100% of the amount that school districts are entitled to receive from the school district capital outlay state aid fund for such school year pursuant to K.S.A. 2012 Supp. 72-8814, and amendments thereto. Upon receipt of such certification, the secretary of state shall cause a notice of such certification to be published in the Kansas register.";

Also on page 1, following line 35, by inserting:

"Sec. 3. K.S.A. 2012 Supp. 72-6441 is hereby amended to read as follows: 72-6441. (a) (1) The board of any district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of costs directly attributable to commencing operation of one or more new school facilities and the amount that is

financed from any other source provided by law for such purpose, including any amount attributable to assignment of school facilities weighting to enrollment of the district for each school year in which the district is eligible for such weighting. If the district is not eligible, or will be ineligible, for school facilities weighting in any one or more years during the two-year period for which the district is authorized to levy a tax under this subsection, the state court of tax appeals may authorize the district to make a levy, in such year or years of ineligibility, which will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the facility or facilities.

(2) The state court of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(3) The state court of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this subsection, including rules and regulations relating to the evidence required in support of a district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(4) The provisions of this subsection apply to any district that: (A) Commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year or any or all of the foregoing; (B) is authorized to adopt and has adopted a local option budget which is at least equal to that amount required to qualify for school facilities weighting under K.S.A. 2012 Supp. 72-6415b, and amendments thereto; and (C) is experiencing extraordinary enrollment growth as determined by the state board of education.

(b) The board of any district that has levied an ad valorem tax on the taxable tangible property of the district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed ~~three~~ six years in an amount not to exceed the amount computed by the state board of education as provided in this subsection if the board of the district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the district. The tax authorized under this subsection may be levied at a rate which will produce an amount that is not greater than the amount computed by the state board of education as provided in this subsection. In computing such amount, the state board shall:

(1) Determine the amount produced by the tax levied by the district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of general state aid directly attributable to school facilities weighting that was received by the district in the same year;

(2) compute ~~75%~~ 90% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the first year of the ~~three-year~~ six-year period for which the district may levy a tax under authority of this subsection;

(3) compute ~~50%~~ 75% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the second year of the ~~three-year~~ six-year period for which the district may levy a tax under authority of this subsection; ~~and~~

(4) compute ~~25%~~ 60% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the third year of the ~~three-year~~ six-year period for which the district may levy a tax under authority of this subsection;

(5) compute 45% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the fourth year of the six-year period for which the district may levy a tax under authority of this subsection;

(6) compute 30% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the fifth year of the six-year period for which the district may levy a tax under authority of this subsection; and

(7) compute 15% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the sixth year of the six-year period for which the district may levy a tax under authority of this subsection.

In determining the amount produced by the tax levied by the district under authority of subsection (a), the state board shall include any moneys which have been apportioned to the ancillary facilities fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(c) The proceeds from the tax levied by a district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

Sec. 4. K.S.A. 2012 Supp. 72-6448 is hereby amended to read as follows: 72-6448. (a) As used in this section:

(1) "Pupil" means a person who is a dependent of a full-time active duty member of the military service or a dependent of a member of any of the United States military reserve forces who has been ordered to active duty under section 12301, 12302 or 12304 of Title 10 of the United States Code, or ordered to full-time active duty for a period of more than 30 consecutive days under section 502(f) or 512 of Title 32 of the United States Code for the purposes of mobilizing for war, international peacekeeping missions, national emergency or homeland defense activities.

(2) "School year" means school year ~~2009-2010, 2010-2011, 2011-2012 or 2012-2013~~ 2013-2014, 2014-2015, 2015-2016, 2016-2017 or 2017-2018.

(b) Each school year, the state board shall:

(1) Determine the number of pupils enrolled in each district on September 20; and

(2) determine the number of military pupils enrolled in each district on February 20, who were not enrolled on the preceding September 20~~;~~.

(c) (1) If the number obtained under subsection (b)(2) is 25 or more, an amount equal to the number obtained under subsection (b)(2) shall be added to the number determined under subsection (b)(1). The sum is the enrollment of the district.

(2) If the number obtained under subsection (b)(2) is at least 1% of the number determined under subsection (b)(1), an amount equal to the number obtained under subsection (b)(2) shall be added to the number determined under subsection (b)(1). The sum is the enrollment of the district.

(d) The state board shall recompute the adjusted enrollment of the district and the general fund budget of the school district based on the enrollment as determined under

this section.

(e) Districts desiring to determine enrollment under this section shall submit any documentation or information required by the state board.

Sec. 5. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 2012 Supp. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in this act and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. _____,

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed _____ years in an amount not to exceed _____ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of ~~buildings~~ school district property and equipment necessary for school district purposes, including: (1) Acquisition of computer software; (2) acquisition of performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board~~,~~; (4) architectural expenses ~~incidental thereto, the~~; (5) acquisition of building sites~~, the~~; (6) undertaking and maintenance of asbestos control projects~~, the~~; (7) acquisition of school buses ~~and the~~; and (8) acquisition of other ~~equipment~~ fixed assets, and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 calendar days after the last publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for ~~the~~ that purpose or at the next general election, as is specified by the board of education of the above school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the ____ day of _____, ____

_____

Clerk of the board of education.

All of the blanks in the above resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank

preceding the word "mills" shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 calendar days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act:

(1) "Unconditionally authorized to make a capital outlay tax levy" means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) "statutorily prescribed mill rate" means: (A) Eight mills; (B) the mill levy rate in excess of eight mills if the resolution fixing such rate was approved at an election prior to the effective date of this act; or (C) the mill levy rate in excess of eight mills if no petition or no sufficient petition was filed in protest to a resolution fixing such rate in excess of eight mills and the protest period for filing such petition has expired;

(3) "asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) "asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) "asbestos-containing material" means any material or product which contains more than 1% asbestos.

Sec. 6. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 72-8804 is hereby amended to read as follows: 72-8804. (a) Any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for the purpose of the acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of ~~buildings~~ school district property and equipment necessary for school district purposes, including: (1) Acquisition of computer software; (2) acquisition of performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board of education~~,~~; (4) architectural expenses ~~incidental thereto, the~~; (5) acquisition of building sites~~, the~~; (6) undertaking and maintenance of asbestos control projects~~, the~~; (7) acquisition of school buses ~~and the~~; and (8) acquisition of other ~~equipment~~ fixed assets.

(b) The board of education of any school district is hereby authorized to invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein, or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the capital outlay fund.

Sec. 7. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 72-8812 is hereby amended to read as follows: 72-8812. This act shall not in any manner be construed as affecting the validity of any tax levies authorized to be made under article 88 of chapter 72 of the Kansas Statutes Annotated prior to the effective date of this act, nor shall this act in any manner be construed as affecting the validity of any bonds issued or authorized to be issued under ~~said~~ article 88 of chapter 72 of the Kansas Statutes Annotated prior to the effective date of this act.

Sec. 8. K.S.A. 2012 Supp. 72-8254 is hereby amended to read as follows: 72-8254. (a) This section shall be known and may be cited as the Kansas uniform financial accounting and reporting act.

(b) As used in this section:

(1) "Budget summary" means a summary of the official budget adopted by the board of education of the school district, and shall include, but is not limited to, graphs depicting the total expenditures in the budget by category, supplemental and general fund expenditures, instruction expenditures, enrollment figures, mill rates by fund and average salaries. For purposes of this section, the budget at a glance format developed by the state board, and any successor format shall be deemed a budget summary, provided it complies with the requirements of this section.

(2) "Reporting system" means the uniform reporting system, including a uniform chart of accounts, developed by the state board as required by this section.

~~(2)~~ (3) "School district" means ~~any~~ a unified school district ~~in the~~ organized and operated under the laws of this state.

~~(3)~~ (4) "State board" means the state board of education.

(c) The state board shall develop and maintain a uniform reporting system for the receipts and expenditures of school districts. The accounting records maintained by each school district shall be coordinated with the uniform reporting system. Each school district shall record the receipts and expenditures of the district in accordance with a uniform classification of accounts or chart of accounts and reports as shall be prescribed by the state board. Each school district shall submit such reports and statements as may be required by the state board. The state board shall design, revise and direct the use of accounting records and fiscal procedures and prescribe uniform classifications for receipts and expenditures for all school districts. The reporting system shall include all funds held by a school district regardless of the source of the moneys held in such funds, including, but not limited to, all funds funded by fees or other sources of revenue not derived from tax levies. The state board shall prescribe the necessary forms to be used by school districts in connection with such uniform reporting system.

(d) The reporting system developed by the state board shall be developed in such a manner that allows school districts to record and report any information required by

state or federal law.

(e) The reporting system shall provide records showing by funds, accounts and other pertinent classifications, the amounts appropriated, the estimated revenues, actual revenues or receipts, the amounts available for expenditure, the total and itemized expenditures, the unencumbered cash balances, excluding state aid receivable, actual balances on hand and the unencumbered balances of allotments or appropriations for each school district.

(f) The reporting system shall allow a person to search the data and allow for the comparison of data by school district.

(g) Each school district shall annually submit a report to the state board on all construction activity undertaken by the school district which was financed by the issuance of bonds and which such bonds have not matured. Such report shall include all revenue receipts, all expenditures of bond proceeds authorized by law, the dates for commencement and completion of such construction activity, the estimated cost and the actual cost of such construction activity. The information provided in the report shall be in a form so as to readily identify such information with a specific construction project. Such report shall be submitted in a form and manner prescribed by the state board in accordance with the provisions of this section.

(h) From and after July 1, 2012, the board of education of each school district shall record and report the receipts and expenditures of the district in the manner prescribed by the state board in accordance with this section.

(i) (1) Each school district shall annually publish on such district's internet website:

(A) A copy of form 150, estimated legal maximum general fund budget, or any successor document containing the same or similar information, that was submitted by such district to the state board of education for the immediately preceding school year. ~~A copy of such document shall also be annually published by the department of education on its internet website~~; and

(B) the budget summary for the current school year and actual expenditures for the immediately preceding two school years showing total dollars net of transfers and dollars per pupil for each of the following:

(1) Function 1000, instruction;

(2) function 2100, student support;

(3) function 2200, instructional staff support;

(4) functions 2300 through 2500, administration;

(5) function 2600, operation and maintenance;

(6) function 2700, transportation;

(7) function 3100, food service;

(8) functions 2900, 3200 and 3300, other current spending;

(9) function 4000, capital outlay;

(10) function 5100, debt service;

(11) the total expenditures which is the sum of the amounts in paragraphs (1) through (10);

(12) the spending allocated to function 1000, instruction, excluding capital outlay and debt service expenditures, as a percentage of total expenditures;

(13) the spending allocated to function 1000, instruction, excluding capital outlay and debt service expenditures, as a percentage of current spending, which is the sum of

expenditures for functions 1000 through 3300 less capital outlay and debt service expenditures included in any of those functions; and

(14) the revenue in total dollars net of transfers both in total and disaggregated to show the amount of revenue received from local, state and federal revenue sources.

For purposes of subsection (i)(1)(B), all per pupil amounts shall be calculated using the full-time equivalent enrollment of the school district. All function categories and other accounting categories shall refer to those same categories as established and required for financial accounting purposes by the state board as published in the Kansas state department of education's Kansas accounting handbook for unified school districts, as published in August 2012, or later versions as established in rules and regulations adopted by the state board.

(2) Publications ~~pursuant to~~ required by this subsection shall be ~~conducted in such manner as to make the document readily accessible to the public~~ published with an easily identifiable link located on such district's website homepage.

(j) (1) The department of education shall annually publish on its internet website:

(A) All of the publications required under subsection (i); and

(B) the following expenditures for each school district on a per pupil basis:

~~(1)~~ (i) Total expenditures;

~~(2)~~ (ii) capital outlay expenditures;

~~(3)~~ (iii) bond and interest expenditures; and

~~(4)~~ (iv) all other expenditures not included in ~~(2)~~ (ii) or ~~(3)~~ (iii).

(2) Publications required by this subsection shall be published with an easily identifiable link located on the department's website homepage.";

And by redesignating sections accordingly;

On page 2, in line 6, after "72-6431" by inserting ", 72-6441, 72-6448, 72-8254";

Also on page 2, following line 6, by inserting :

"Sec. 11. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 72-8804 and 72-8812 and K.S.A. 2012 Supp. 72-8801 are hereby repealed.";

On page 1, in the title, in line 1, by striking all after the semicolon; in line 2, by striking all before "amending"; also in line 2, after "amending" by inserting "K.S.A. 72-8804 and 72-8812 and"; in line 3, after "72-6431" by inserting ", 72-6441, 72-6448, 72-8801, 72-8254";

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

WARD CASSIDY
AMANDA GROSSERODE
Conferees on part of House

STEVE E. ABRAMS
TOM ARPKE
Conferees on part of Senate

On motion of Rep. Cassidy to adopt the conference committee report on **SB 23**, Rep. Trimmer offered a substitute motion to not adopt the conference committee report and that a new conference committee be appointed. The motion did not prevail.

The question reverted back to the original motion of Rep. Cassidy and the conference committee report on **SB 23** was adopted.

On roll call, the vote was: Yeas 119; Nays 1; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Victors, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Ward.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yes on **SB 23**. The renewal of the 20-mill levy is crucial to the survival of our public schools. The military second count is key to our military students and the full equalization of capital outlay is a dream.

However, the changes to the ancillary weighting conflict directly with the Gannon court order. The courts will decide the outcome.

It only rewards 4 of 286 school districts. We should not reward 4 and leave the rest to fend for themselves. – NILE DILLMORE, STAN FROWNFELTER, JULIE MENGHINI, TOM BURROUGHS, VALDENIA C. WINN, BRODERICK HENDERSON, GAIL FINNEY, PATRICIA M. SLOOP, VIRGIL WEIGEL, JANICE L. PAULS, JOHN WILSON, BOB GRANT, CAROLYN L. BRIDGES, RODERICK HOUSTON, SYDNEY CARLIN, BARBARA W. BALLARD, ED TRIMMER

MR. SPEAKER: I very reluctantly vote for the Conference Committee Report on **SB 23**. It is bundled with Ancillary Facility Weighting, which benefits only 4 rich districts and leaves poor school districts like mine even further behind. The motion to send it back to remove this failed and is just one more step down the slippery slope. Wealthy districts feed at the public trough while equalization for poor districts is ignored. When will this legislature realize that “equal” means just exactly that? CONSTITUTION TO THE RESCUE! – ED BIDEAU

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2183** 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 2, in line 26, after "be" by inserting "medically"; also in line 26, after

"necessary" by inserting "and reasonable"; in line 39, after "in" by inserting "K.S.A. 65-116a and 65-128 made by"; by striking all in lines 41 and 42 and inserting:

"Sec. 4. K.S.A. 65-157 is hereby amended to read as follows: 65-157. The analysis of all waters required in the rules and regulations shall be made by the office of laboratory services of the department of health and environment and the fees collected under the provisions of this act by the secretary of health and environment shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ office of laboratory services operating fund.

Sec. 5. K.S.A. 65-1,109a is hereby amended to read as follows: 65-1,109a. (a) The secretary of health and environment may adopt rules and regulations establishing: (1) Procedures and qualifications for certification of laboratories performing analyses required pursuant to K.S.A. 65-161 et seq., 65-171d, 65-3001 et seq., 65-3401 et seq. or 65-3430 et seq. or K.S.A. 65-3452a et seq. or 65-34,105 et seq., and amendments thereto; and (2) a schedule of fees to defray all or part of the costs of administering the certification program. Such fees shall not be refundable. Failure to pay assessed fees shall be cause for denial of certification.

(b) Any person who violates any provision of the rules and regulations adopted under this act shall, after notice and hearing in accordance with the Kansas administrative procedure act, be subject to suspension, denial or revocation of any certification granted hereunder and a civil penalty not to exceed $500. Each day a violation continues shall be deemed a separate violation.

(c) The secretary of health and environment shall remit all moneys received from fees or penalties pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ office of laboratory services operating fund.

Sec. 6. K.S.A. 75-5608 is hereby amended to read as follows: 75-5608. (a) There is hereby established under the supervision of the secretary of health and environment, an office of laboratory services. The office of laboratory services shall provide laboratory information and perform laboratory tests and experiments as directed by the secretary of health and environment and shall exercise such other powers, duties and functions as the secretary of health and environment may direct.

(b) The secretary may adopt rules and regulations for the collection and biological or chemical analysis of samples received by the office of laboratory services. The secretary, by adoption of rules and regulations, may fix fees for any biological or chemical analysis services provided by the office of laboratory services and waive any such fees whenever the secretary finds that waiver is in the interest of protecting the public health and safety. The secretary shall waive fees for such services provided to public health departments and state hospitals. Fees charged and collected shall not exceed the actual cost of the analysis and testing provided by the office of laboratory services.

(c) Fees collected under this section shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the office of laboratory services operating

fund.

New Sec. 7. (a) There is hereby created in the state treasury the office of laboratory services operating fund. Expenditures from the office of laboratory services operating fund shall be used by the department of health and environment only for the purposes of operating the office of laboratory services. All such expenditures from the office of laboratory services operating fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

(b) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the office of laboratory services operating fund interest earnings based on:

(1) The average daily balance of moneys in the office of laboratory services operating fund, for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 8. K.S.A. 2012 Supp. 65-6821 is hereby amended to read as follows: 65-6821. ~~(a)~~ K.S.A. 2012 Supp. 65-6821 through 65-6834 and section 20, and amendments thereto, shall be known and may be cited as the Kansas health information technology ~~and exchange~~ act.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 9. K.S.A. 2012 Supp. 65-6822 is hereby amended to read as follows: 65-6822. As used in the Kansas health information technology ~~and exchange~~ act:

(a) "Act" means the Kansas health information technology ~~and exchange~~ act.

(b) "Approved ~~HIO~~ health information organization" means a health information organization operating in the state ~~which has been approved by the corporation~~ under a valid certificate of authority issued by the department.

(c) ~~"Corporation" means the Kansas health information exchange, inc., created by executive order 10-06.~~ "Authorization" means a document that permits a covered entity to use or disclose protected health information for purposes other than to carry out treatment, payment or health care operations, and that complies with the requirements of 45 C.F.R. § 164.508.

(d) "Covered entity" ~~means a health care provider, a health care component of a hybrid entity, a health plan or a health care clearinghouse~~ a covered entity as the term is defined in 45 C.F.R. § 160.103.

(e) ~~"Designated record set" means designated record set as that term is defined by the HIPAA privacy rule~~ "Department" means the Kansas department of health and environment.

(f) "Disclosure" means disclosure as that term is defined by the HIPAA privacy rule.

(g) ~~"DPOA-HC" means the person to whom a durable power of attorney for health care decisions has been granted by an individual in accordance with K.S.A. 58-625 et seq., and amendments thereto.~~

~~(h) "Electronic protected health information" means electronic health information as that term is defined by the HIPAA privacy rule.~~

~~(i)~~ "Health care" means health care as that term is defined by the HIPAA privacy rule.

~~(j) "Health care clearinghouse" means a health care clearinghouse, as that term is defined by the HIPAA privacy rule, doing business within the state.~~

~~(k)~~(h) "Health care provider" means a health care provider, as that term is defined by the HIPAA privacy rule~~, that furnishes health care to individuals in the state~~.

~~(l)~~(i) "Health information" means health information as that term is defined by the HIPAA privacy rule.

~~(m)~~(j) "Health information organization" means any entity operating in the state which:

(1) Maintains technical infrastructure for the electronic movement of health information among covered entities; and

(2) promulgates and enforces policies governing participation in such sharing of health information ~~exchange~~.

~~(n)~~(k) "Health information technology" means an information processing application using computer hardware and software for the storage, retrieval, use and disclosure of health information for communication, decision-making, quality, safety and efficiency of health care. "Health information technology" includes, but is not limited to: (1) An electronic health record; (2) a personal health record; (3) the sharing of health information ~~exchange~~ electronically; (4) electronic order entry; and (5) electronic decision support.

~~(o) "Health plan" means a health plan, as that term is defined by the HIPAA privacy rule, doing business within the state.~~

~~(p)~~(l) "HIPAA privacy rule" means the privacy rule of the administrative simplification subtitle of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. part 160 and 45 C.F.R. part 164, subparts A and E.

~~(q) "Hybrid entity" means hybrid entity as that term is defined by the HIPAA privacy rule.~~

~~(r)~~(m) "Individual" means individual as that term is defined by the HIPAA privacy rule.

~~(s)~~(n) "Individually identifiable health information" means individually identifiable health information as that term is defined by the HIPAA privacy rule.

~~(t) "Interoperability" means the capacity of two or more information systems to exchange information or data in an accurate, effective, secure and consistent manner.~~

~~(u)~~(o) "Participation agreement" means a written agreement between a covered entity and an approved ~~HIO~~ health information organization concerning the covered entity's participation in the approved ~~HIO~~ health information organization on terms consistent with K.S.A. 2012 Supp. 65-6832, and amendments thereto.

~~(v)~~(p) "Personal representative" means the person who has the legal authority to act on behalf of an individual.

~~(w)~~(q) "Protected health information" means protected health information as that term is defined by the HIPAA privacy rule.

~~(x) "Public health authority" means public health authority as that term is defined by the HIPAA privacy rule.~~

~~(y)~~(r) "Secretary" means the secretary of health and environment.

~~(z) "Standard authorization form" means the standard authorization form developed and promulgated by the secretary pursuant to K.S.A. 2012 Supp. 65-6826, and amendments thereto.~~

~~(aa)~~(s) "State" means the state of Kansas.

~~(bb)~~(t) "Use" means, with respect to individually identifiable health information, use as the term is defined by the HIPAA privacy rule.

~~This section shall take effect on and after July 1, 2011.~~

Sec. 10. K.S.A. 2012 Supp. 65-6823 is hereby amended to read as follows: 65-6823. ~~(a)~~ It is the purpose of this act to harmonize state law with the HIPAA privacy rule with respect to individual access to protected health information, proper safeguarding of protected health information, and the use and disclosure of protected health information for purposes of facilitating the development and use of health information technology and ~~health information exchange~~ the sharing of health information electronically.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 11. K.S.A. 2012 Supp. 65-6824 is hereby amended to read as follows: 65-6824. (a) A covered entity shall provide an individual or such individual's personal representative with access to the individual's protected health information maintained ~~by the~~, collected, used or disseminated by or for the covered entity ~~in a designated record set~~ in compliance with 45 C.F.R. § 164.524.

(b) A covered entity shall implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. § 164.530(c).

~~(c) This section shall take effect on and after July 1, 2011.~~

Sec. 12. K.S.A. 2012 Supp. 65-6825 is hereby amended to read as follows: 65-6825. (a) No covered entity shall use or disclose protected health information except as follows:

(1) ~~Use and disclosure of protected health information~~In a manner consistent with an authorization that satisfies the requirements of 45 C.F.R. § 164.508;

(2) ~~use and disclosure of protected health information without an authorization~~ in a manner as permitted under 45 C.F.R. §§ 164.502, 164.506, 164.508, 164.510 and 164.512; or

(3) ~~use and disclosure of protected health information~~ in a manner as required under 45 C.F.R. § 164.502.

(b) ~~Notwithstanding the provisions of subsection (a), no covered entity shall disclose an individual's protected health information to a health information organization for any purpose without an authorization that satisfies the requirements of 45 C.F.R. § 164.508, unless~~ A covered entity may disclose an individual's protected health information to a health information organization without an authorization if such covered entity:

(1) Is a party to a current participation agreement with an approved ~~HIO~~ health information organization at the time the disclosure is made;

(2) discloses the individual's protected health information to that approved ~~HIO~~ health information organization in a manner consistent with the ~~approved HIO's~~ established procedures of the approved health information organization; and

(3) ~~prior to the disclosure, has furnished~~ furnishes to the individual, or such individual's personal representative, whose information is to be disclosed to the approved ~~HIO~~ health information organization, the notice required under K.S.A. 2012 Supp. 65-6832, and amendments thereto~~; and~~

~~(4) restricts disclosure to the approved HIO of any protected health information~~

~~concerning the individual that is the subject of a written request delivered to the covered entity by the individual, or such individual's personal representative, for reasonable restrictions on disclosure of all or any specified categories of the individual's protected health information, as defined pursuant to K.S.A. 2012 Supp. 65-6832, and amendments thereto, following the covered entity's receipt of such written request~~.

(c) ~~Notwithstanding the provisions of subsections (a) and (b),~~ A covered entity that uses or discloses protected health information in compliance with this section shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

~~(d) This section shall take effect on and after July 1, 2011.~~

Sec. 13. K.S.A. 2012 Supp. 65-6828 is hereby amended to read as follows: 65-6828. To the extent any provision of state law regarding the confidentiality, privacy, security or privileged status of any protected health information conflicts with, is contrary to, or more stringent than the provisions of this act, the provisions of this act shall control, except that: (a) Nothing in this act shall limit or restrict the effect and application of the peer review statute, K.S.A. 65-4915, and amendments thereto; the risk management statute, K.S.A. 65-4921 through 65-4930, and amendments thereto; or any statutory health care provider-patient evidentiary privilege applicable to a judicial or administrative proceeding; and

(b) nothing in this act shall limit or restrict the ability of any state agency to require the disclosure of protected health information by any person or entity pursuant to law.

Sec. 14. K.S.A. 2012 Supp. 65-6829 is hereby amended to read as follows: 65-6829. ~~(a)~~ A ~~health care provider~~ covered entity may disclose protected health information without authorization to any state agency for any public health purpose that is required by law. Nothing in this act shall be construed to limit the use, transfer or disclosure of protected health information as required or permitted by any other provision of law for public health purposes.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 15. K.S.A. 2012 Supp. 65-6830 is hereby amended to read as follows: 65-6830. (a) The ~~corporation~~ department shall establish and revise, as appropriate, standards for the approval and operation of statewide and regional health information organizations operating in the state as approved ~~HIOs~~ health information organizations including, but not limited to, the following:

~~(a) Satisfaction of certification standards for health information exchanges promulgated by the federal government;~~

~~(b)~~(1) Adherence to nationally recognized standards for interoperability, that is, the capacity of two or more information systems to share information or data in an accurate, effective, secure and consistent manner;

~~(c)~~(2) adoption and adherence to rules promulgated by the ~~corporation~~ department regarding access to and use and disclosure of protected health information maintained by or on an approved ~~HIO~~ health information organization;

~~(d)~~(3) demonstration of adequate financial resources to sustain continued operations in compliance with the standards;

~~(e)~~(4) participation in outreach activities for individuals and covered entities;

~~(f)~~(5) conduct of operations in a transparent manner to promote consumer confidence;

~~(g)~~(6) implementation of security breach notification procedures; and

~~(h)~~(7) development of procedures for entering into and enforcing the terms of participation agreements with covered entities which satisfy the requirements established by the ~~corporation~~ department pursuant to K.S.A. 2012 Supp. 65-6832, and amendments thereto.

(b) The department shall ensure that approved health information organizations operate within the state in a manner consistent with the protection of the security and privacy of health information of the citizens of Kansas.

(c) No expenditure shall be made from the state general fund for the purposes of administration, operation or oversight of the health information organizations defined in K.S.A. 65-6821, and amendments thereto, except that the secretary of health and environment may make operational expenditures for the purpose of adopting and administering the rules and regulations necessary to implement the Kansas health information technology act.

~~This section shall take effect on and after July 1, 2011.~~

Sec. 16. K.S.A. 2012 Supp. 65-6831 is hereby amended to read as follows: 65-6831. ~~(a)~~ The ~~corporation~~ department shall establish and implement:

~~(1)~~(a) A process by which a health information ~~exchange~~ organization may apply for and receive ~~approval~~ a certificate of authority issued by the ~~corporation~~ department by demonstrating compliance with the standards promulgated by the ~~corporation~~ department pursuant to K.S.A. 2012 Supp. 65-6830, and amendments thereto;

~~(2)~~(b) a process by which an approved ~~HIO~~ health information organization shall be re-approved on appropriate intervals by demonstrating continued compliance with the standards promulgated by the ~~corporation~~ department pursuant to K.S.A. 2012 Supp. 65-6830, and amendments thereto; and

~~(3)~~(c) a process for the investigation of reported concerns and complaints regarding an approved ~~HIO~~ health information organization and imposition of appropriate remedial and proactive measures to address any identified deficiencies.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 17. K.S.A. 2012 Supp. 65-6832 is hereby amended to read as follows: 65-6832. ~~(a)~~ The ~~corporation~~ department shall establish requirements ~~for participation agreements~~ to be used by approved health information organizations in participation agreements with covered entities and shall include the following:

~~(1)~~(a) Specification of procedures ~~for the covered entity to disclose~~ by which an individual's protected health information ~~to the approved HIO~~ will be disclosed by covered entities, will be collected by approved health information organizations and will be shared with other participating covered entities and with the department as required by law for public health purposes;

~~(2)~~(b) specification of procedures ~~for the covered entity to access an individual's protected health information from the approved HIO~~ by which an individual may elect that protected health information be restricted from disclosure by approved health information organizations to covered entities;

~~(3)~~(c) specifications of purposes for, and procedures by which a covered entity can access an individual's protected health information from the approved health information organization, including access to restricted information by a covered entity in an emergency situation when necessary to properly treat the individual;

(d) specification of the written notice to be provided by the covered entity to any

individual, or such individual's personal representative~~, prior to the covered entity's disclosure of the individual's protected health information to the approved HIO~~ that explains how and what protected health information will be shared with the approved health information organization. Such written notice, which may be incorporated into the covered entity's notice of privacy practices required under the HIPAA privacy rule, shall include the following that:

~~(A)~~(1) The individual's protected health information will be disclosed to the approved ~~HIO~~ health information organization to facilitate the provision of health care to the individual;

~~(B)~~(2) the approved ~~HIO~~ health information organization maintains appropriate safeguards to protect the privacy and security of protected health information;

~~(C)~~(3) only authorized individuals may access protected health information from the approved ~~HIO~~ health information organization;

~~(D)~~(4) the individual, or such individual's personal representative, has the right to request in writing that ~~the covered entity: (i) Not disclose any of the individual's protected health information to the approved HIO; or (ii) not disclose specified categories of the individual's protected health information to the approved HIO~~ the individual's protected health information not be disclosed by the health information organization;

~~(E)~~(5) ~~such restrictions may result in a health care provider not having access to information necessary to provide appropriate care for the individual;~~

~~(F) the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, not to disclose any of the individual's protected health information to an approved HIO; and~~

~~(G) the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, for reasonable restrictions on the disclosure of specified categories of the individual's protected health information to an approved HIO.~~the health information organization is required to honor a written request not to disclose an individual's protected health information, except that disclosure is permitted (A) in an emergency situation when necessary to properly treat the individual, or (B) when necessary to satisfy a covered entity's legal obligation to report certain information to a government official; and

(6) the inability to access restricted information by a covered entity may result in a health care provider not having access to information necessary to provide appropriate care for the individual;

~~(4)~~(e) specification of documentation requirements to demonstrate delivery of such notice to an individual, or such individual's personal representative, by or on behalf of the covered entity ~~prior to the covered entity's disclosure of the individual's protected health information to the approved HIO;~~

~~(5) standards for determining the reasonableness of an individual's written request, or the written request of such individual's personal representative, not to disclose specified categories of the individual's protected health information to the approved HIO based on the covered entity's technological capabilities; and~~

~~(6) specification of the purposes for which a covered entity may access protected health information through the approved HIO.~~

~~(b) This section shall take effect on and after July 1, 2011~~.

Sec. 18. K.S.A. 2012 Supp. 65-6833 is hereby amended to read as follows: 65-

6833. ~~(a)~~ Any health information organization which is not an approved ~~HIO~~ health information organization shall not be eligible for any financial support from the state, or assistance or support from the state in securing any other source of funding.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 19. K.S.A. 2012 Supp. 65-6834 is hereby amended to read as follows: 65-6834. (a) ~~Notwithstanding any other provision of this act,~~ No use or disclosure of protected health information maintained by or on an approved ~~HIO~~ health information organization shall be made except pursuant to rules and regulations adopted by the ~~corporation~~ department consistent with this act. An approved ~~HIO~~ health information organization that uses or discloses protected health information in compliance with such rules shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

(b) ~~This section shall take effect on and after July 1, 2011.~~ Protected health information in the possession of an approved health information organization shall not be subject to discovery, subpoena or other means of legal compulsion for the release of such protected health information to any person or entity. An approved health information organization shall not be compelled by a request for production, subpoena, court order or otherwise, to disclose protected health information relating to an individual.

New Sec. 20. (a) There is hereby established an advisory council on health information technology. The advisory council on health information technology shall be advisory to the secretary of health and environment and shall be within the division of health of the department of health and environment.

(b) The advisory council on health information technology shall be composed of 23 voting members, as follows:

(1) The secretary of the Kansas department of health and environment, or such secretary's designee;

(2) the governor of the state of Kansas, or such governor's designee;

(3) four legislators selected as follows: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate;

(4) two members appointed by the secretary who represent consumers;

(5) one member appointed by the secretary who represents employers;

(6) one member appointed by the secretary who represents payers;

(7) one member appointed by the secretary who represents local health departments from a list of three names submitted by the Kansas association of local health departments;

(8) three members appointed by the secretary who represent hospitals, from a list of three names for each position submitted by the Kansas hospital association. One of the hospital representatives appointed herein shall be involved in the administration of a critical access hospital;

(9) three members appointed by the secretary from a list of three names for each position by the Kansas medical society. At least two of the members appointed herein shall be practicing physicians, and one of the physicians shall be a physician in a primary care specialty;

(10) two members appointed by the secretary who represent pharmacists, from a

list of three names submitted by the Kansas pharmacists association. At least one of the members appointed herein shall be a practicing pharmacist;

(11) one member appointed by the secretary who represents the university of Kansas center for health information from a list of three names submitted by the university of Kansas center for health information;

(12) one member appointed by the secretary who represents the Kansas foundation for medical care from a list of three names submitted by the Kansas foundation for medical care;

(13) one member appointed by the secretary who represents the Kansas optometric association from a list of three names submitted by the Kansas optometric association; and

(14) one member appointed by the secretary who represents the association of community mental health centers of Kansas from a list of three names submitted by the association of community mental health centers of Kansas.

(c) At the first meeting of the council, following the effective date of this act, terms of its members, except the secretary and governor or their designees, shall be determined by lot with five members serving for one year, five members serving for two years, five members serving for three years, and six members serving for four years. Following their initial term, members of the council shall be eligible for re-appointment and, if re-appointed, shall serve for terms of four years. Members shall only be eligible to serve two consecutive four-year terms. Whenever a vacancy occurs regarding a member of the council due to the resignation, death, removal or expiration of a term, a new member shall be appointed prior to the next meeting, according to the process and to the specific position on the council as provided in subsection (b). In the event of a vacancy during an unexpired term due to resignation, death or removal of a council member, the appointment shall be for the remainder of the unexpired portion of the term. Each member of the council shall hold office for the term of appointment and until a successor has been appointed. Any member of the council may be removed by the secretary for malfeasance or misfeasance in office, regularly failing to attend meetings, or for any cause which renders the member incapable of the discharge of the duties of a member.

(d) The council shall meet at least four times per year and at such times as the council deems appropriate or as called by the secretary.

(e) Members of the council are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto. Members of the council attending council meetings or subcommittee meetings authorized by the council shall be paid mileage and all other applicable expenses, provided such expenses are consistent with policies established from time-to-time by the council.

Sec. 21. K.S.A. 2012 Supp. 28-115 is hereby amended to read as follows: 28-115. (a) The register of deeds of each county shall charge and collect the following fees:

For recording deeds, mortgages or other instruments of writing, for first page, not to exceed legal size page—8½" x 14"....$6.00

For second page and each additional page or fraction thereof....2.00

Recording town plats, for each page....20.00

Recording release or assignment of real estate mortgage....5.00

Certificate, certifying any instrument on record.....1.00
Acknowledgment of a signature.....50
For filing notices of tax liens under the internal revenue laws of the United States.....5.00
For filing releases of tax liens, certificates of discharge, under the internal revenue laws of the United States or the revenue laws of the state of Kansas...5.00
For filing liens for materials and services under K.S.A. 58-201, and amendments thereto.....5.00

(b) In addition to the fees required to be charged and collected pursuant to subsection (a), the register of deeds shall charge and collect an additional fee of $2 per page for recording:

(1) The first page of any deeds, mortgages or other instruments of writing, not to exceed legal size—8½" x 14";

(2) the second page and each additional page or fraction of any deeds, mortgages or instruments of writing; and

(3) a release or assignment of real estate mortgage.

Any fees collected pursuant to this subsection shall be paid by the register of deeds to the county treasurer. The county treasurer shall deposit such funds in the register of deeds technology fund as provided by K.S.A. 2012 Supp. 28-115a, and amendments thereto.

(c) For any filing or service provided for in the uniform commercial code, the amount therein provided, shall be charged and collected. No fee shall be charged or collected for any filing made by the secretary of health and environment or the secretary's designee pursuant to K.S.A 39-709, and amendments thereto.

(d) If the name or names of the signer or signers or any notary public to any instrument to be recorded are not plainly typed or printed under the signatures affixed to the instrument, the register of deeds shall charge and collect a fee of $1 in addition to all other fees provided in this section.

(e) If sufficient space is not provided for the necessary recording information and certification on a document, such recording information shall be placed on an added sheet and such sheet shall be counted as a page. The document shall be of sufficient legibility so as to produce a clear and legible reproduction thereof. If a document is judged not to be of sufficient legibility so as to produce a clear and legible reproduction, such document shall be accompanied by an exact copy thereof which shall be of sufficient legibility so as to produce a clear and legible reproduction thereof and which shall be recorded contemporaneously with the document and shall be counted as additional pages. The register of deeds may reject any document which is not of sufficient legibility so as to produce a clear and legible reproduction thereof.

(f) Any document which was filed on or after January 1, 1989, which was of a size print or type smaller than 8-point type but which otherwise was properly filed shall be deemed to be validly filed.

(g) All fees required to be collected pursuant to this section, except those charged for the filing of liens and releases of tax liens under the internal revenue laws of the United States, shall be due and payable before the register of deeds shall be required to do the work. If the register of deeds fails to collect any of the fees provided in this section, the amount of the fees at the end of each quarter shall be deducted from the register's salary.

(h) Except as otherwise provided by subsection (b), all fees required to be collected pursuant to this section shall be paid by the register of deeds to the county treasurer and deposited into the general fund of the county.

Sec. 22. K.S.A. 39-702 is hereby amended to read as follows: 39-702. The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

(a) "Secretary" means the secretary ~~of social and rehabilitation services~~ for children and families, unless otherwise specified.

(b) "Applicants" means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) "Social welfare service" may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) "Assistance" includes such items or functions as the giving or providing of money, food stamps or coupons, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific, and the providing of institutional care, which may be necessary or helpful to the recipient in providing the necessities of life for the recipient and the recipient's dependents. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) "Aid to families with dependent children" means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative with whom any dependent child is living.

(f) "Medical assistance" means the payment of all or part of the cost of necessary: (1) Medical, remedial, rehabilitative or preventive care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the secretary; and (2) transportation to obtain care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) "Dependent children" means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program or are full-time students in a program of vocational or technical training if they may be reasonably expected to complete the training before attaining age 19, who have been deprived of parental or guardian support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent or guardian, and who are living with any blood relative, including those of the half-blood, and including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home. The secretary may adopt rules and regulations which extend the deprivation requirement under this definition to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The term "dependent children" also includes children who would meet the foregoing requirements except for their removal from the home of a relative as a result of judicial determination to the effect that continuation

therein would be contrary to the welfare of such children, for whose placement and care the secretary is responsible, who have been placed in a foster family home or child care institution as a result of such determination and who received aid to dependent children in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified above within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month such child had been living with and removed from the home of such a relative and application had been made therefor.

(h) "The blind" means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) "General assistance" means financial assistance in which the cost of such financial assistance is not participated in by the federal government. General assistance may be limited to transitional assistance in some instances as specified by rules and regulations adopted by the secretary.

(j) "Recipient" means a person who has received assistance under the terms of this act.

(k) "Intake office" means the place where the secretary shall maintain an office for receiving applications.

(l) "Adequate consideration" means consideration equal, or reasonably proportioned to the value of that for which it is given.

(m) "Transitional assistance" means a form of general assistance in which as little financial assistance as one payment may be made during each period of 12 consecutive calendar months to an eligible and needy person and all other persons for whom such person is legally responsible.

(n) "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. § 651~~,~~ et seq.)~~, or acts amendatory thereof or supplemental thereto~~ as in effect on May 1, 1997.

Sec. 23. K.S.A. 2012 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the ~~department of social and rehabilitation services~~ Kansas

department for children and families under which federal moneys are expended, the secretary ~~of social and rehabilitation services~~ for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(c) *Aid to families with dependent children; assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving aid to families with dependent children, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(d) *Eligibility requirements for general assistance, the cost of which is not shared by the federal government.* (1) General assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d).

(A) To qualify for general assistance in any form a needy person must have

insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must be a citizen of the United States or an alien lawfully admitted to the United States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d), but who do not meet the criteria prescribed by rules and regulations of the secretary relating to inability to engage in employment or are not a member of a family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this subsection (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders

convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, "public assistance" includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.* (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303, ~~and amendments thereto,~~ of the federal medicare catastrophic coverage act of 1988, whichever is

applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is (A) a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both, and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection (g). The secretary is authorized to enforce each claim provided for under this subsection (g). The secretary shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary from claims under this subsection (g) shall be

deposited in the social welfare fund. The secretary may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection (g).

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary ~~of social and rehabilitation services~~ of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien. ~~This lien is for payments of medical assistance made by the department of social and rehabilitation services to the recipient who is an inpatient in a nursing home or other medical institution.~~

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home~~, nursing homes~~ or other medical institution shall constitute a determination by the ~~department of social and rehabilitation services~~ department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a

nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the ~~department of social and rehabilitation services after the expiration of six months from the date the recipient became eligible for compensated inpatient care at a nursing home, nursing homes or other medical institution~~ department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

(A) After the death of the surviving spouse of the recipient;

(B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;

(C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or

(D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

(A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary or the secretary's designee;

(B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or

(C) the value of the real property is consumed by the lien, at which time the secretary or the secretary's designee may force the sale for the real property to satisfy the lien; ~~or~~

~~(D) after a lien is filed against the real property, it will be dissolved if the recipient leaves the nursing or medical facility and resides in the property to which the lien is attached for a period of more than 90 days without being readmitted as an inpatient to a nursing or medical facility, even though there may have been no reasonable expectation that this would occur. If the recipient is readmitted to a nursing or medical facility during this period, and does return home after being released, another 90 days must be completed before the lien can be dissolved~~.

(7) If the secretary ~~of social and rehabilitation~~ for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the

real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary ~~of social and rehabilitation services~~ for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations which penalty shall progress to ineligibility for the family after three months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

Sec. 24. K.S.A. 58-3957 is hereby amended to read as follows: 58-3957. (a) (1) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

(2) The department of health and environment may claim an interest in any property paid or delivered to the administrator if the deceased owner of such property received medical assistance under K.S.A. 39-709, and amendments thereto, except that such claim shall not exceed the amount of medical assistance received by the deceased owner.

(3) The administrator may hold a hearing on the claim in accordance with the provisions of the Kansas administrative procedure act. The decision resulting from any hearing shall be a public record.

(b) The administrator shall consider each claim within 90 days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(c) If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by K.S.A. 58-3954, and amendments thereto. Interest reported under the previous disposition of unclaimed property act shall not be computed, paid or delivered to the claimant after enactment of this act. If the claim is for property presumed abandoned under K.S.A. 58-3943, and amendments thereto, which was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of

sale, whichever is greater.

(d) Any holder who pays the owner for property that has been delivered to the state and which, if claimed from the administrator, would be subject to subsection (c) shall add any additional amount as provided in K.S.A. 58-3954, and amendments thereto. The additional amount shall be repaid to the holder by the administrator in the same manner as the principal.

Sec. 25. K.S.A. 39-702, 58-3957, 65-116a, 65-128, 65-157, 65-1,109a, 75-5607 and 75-5608 and K.S.A. 2012 Supp. 28-115, 39-709, 65-129a, 65-6821, 65-6822, 65-6823, 65-6824, 65-6825, 65-6826, 65-6827, 65-6828, 65-6829, 65-6830, 65-6831, 65-6832, 65-6833 and 65-6834 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "the department of health and environment; relating to"; in line 2, by striking all after the semicolon; by striking all in lines 3 and 4 and inserting "concerning the office of laboratory services; creating the office of laboratory services operating fund and providing for certain fees and deposits to such fund; concerning health information technology; relating to the medical assistance recovery program; amending K.S.A. 39-702, 58-3957, 65-116a, 65-128, 65-157, 65-1,109a and 75-5608 and K.S.A. 2012 Supp. 28-115, 39-709, 65-6821, 65-6822, 65-6823, 65-6824, 65-6825, 65-6828, 65-6829, 65-6830, 65-6831, 65-6832, 65-6833 and 65-6834 and repealing the existing sections; also repealing K.S.A. 75-5607 and K.S.A. 2012 Supp. 65-129a, 65-6826 and 65-6827."

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

MARY PILCHER-COOK
ELAINE BOWERS
LAURA KELLY
Conferees on part of Senate

J. DAVID CRUM
BRIAN WEBER
Conferees on part of House

On motion of Rep. Crum, the conference committee report on **Sub HB 2183** was adopted.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey,

Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

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

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

On page 67, in line 3, by striking "20%" and inserting "25%";

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

Julia Lynn
Susan Wagle
Conferees on part of Senate

Marvin Kleeb
Gene Suellentrop
Conferees on part of House

On motion of Rep. Kleeb, the conference committee report on **Sub HB 2105** was adopted.

On roll call, the vote was: Yeas 89; Nays 31; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Becker, Bideau, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, Moxley, O'Brien, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Bollier, Bridges, Burroughs, Carlin, Davis, Dillmore, Finney, Frownfelter, Grant, Henderson, Henry, Houston, Kuether, Lane, Lusk, Meier, Menghini, Pauls, Perry, Ruiz, Sloop, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2234** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on

conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 24 through 30;

By striking all on pages 2 through 4;

On page 5, by striking all in lines 1 though 38 and inserting:

"Section 1. K.S.A. 68-2003 is hereby amended to read as follows: 68-2003. (a) There is hereby created a body politic and corporate to be known as the Kansas turnpike authority. The authority is hereby constituted a public instrumentality and the exercise by the authority of the powers conferred by this act in the construction, operation and maintenance of turnpike projects shall be deemed and held to be the performance of an essential governmental function.

(b) The Kansas turnpike authority shall consist of five members. Two members shall be appointed by the governor for terms of four years. The members appointed by the governor shall be residents of the state and shall each year be owners of revenue bonds issued by the Kansas turnpike authority. One member of the authority shall be the secretary of transportation. One member shall be the chairperson of the committee on transportation ~~and tourism~~ of the senate, and one member shall be a member of the committee on transportation of the house of representatives and shall be appointed by the speaker of the house of representatives. Any person appointed by the governor to fill a vacancy on the authority shall be appointed to serve only for the unexpired term, and a member of the authority shall be eligible for reappointment. A member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and a public hearing conducted in accordance with the provisions of the Kansas administrative procedure act. Each member of the authority, before entering upon the member's duties, shall take and subscribe an oath or affirmation as required by law.

(c) The authority shall elect one member as chairperson of the authority and another as vice-chairperson. The authority shall also elect a secretary-treasurer who need not be a member of the authority. The chairperson, vice-chairperson and secretary-treasurer shall serve as officers at the pleasure of the authority. Three members of the authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(d) Members of the Kansas turnpike authority attending meetings of such authority, or attending a subcommittee meeting thereof authorized by such authority, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) On and after July 1, 2013, the secretary of transportation shall serve as the director of operations of the authority. The director of operations shall be responsible for the daily administration of the toll roads, bridges, structures and facilities constructed, maintained or operated pursuant to this act. The director of operations or the director's designee shall have such powers as are necessary to carry out these responsibilities. The provisions of this subsection shall expire and have no effect on and after July 1, 2016.

Sec. 2. K.S.A. 68-2009 is hereby amended to read as follows: 68-2009. (a) The authority is hereby authorized to fix, revise, charge and collect tolls for the use of each

turnpike project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, motor fuel filling stations, garages, and restaurants, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. All contracts made by the authority for retail establishments or locations for retail establishments shall be made separately for each retail establishment or location for a retail establishment and sealed bids shall be asked separately on each retail establishment or each location for a retail establishment by public offering duly advertised as provided by law for the advertising for bids on state highway construction projects and each such contract shall be let by the authority in like manner as provided by law for the letting of highway construction contracts by the secretary of transportation. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay ~~(a)~~: (1) The cost of maintaining, repairing and operating such turnpike project or projects; and ~~(b)~~(2) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes.

(b) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the state. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

(c) The authority shall not use toll or other revenue for any other purposes than those set forth in this section.

Sec. 3. K.S.A. 68-2021 is hereby amended to read as follows: 68-2021. On and after July 1, 2016, the secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other, by the terms of which

contract or contracts the secretary may undertake; (1) to provide personnel and equipment, either of the department of transportation or consulting or contracting firms, required in making any traffic and cost studies or surveys or origin-destination studies necessary preliminary to financing by the Kansas turnpike authority of any particular toll project undertaken as authorized by law, and to do such work; and

(2) to provide personnel and equipment required, and to do any engineering, geological work, soils testing or materials testing which may be required by the Kansas turnpike authority either preliminary to the financing of any particular toll project authorized by law or which may be required after such financing and during the construction of such project~~: Provided, That~~. The charges for services contemplated by such project shall be made by the secretary of transportation on the basis of the total and actual cost to the department of all wages, salaries, expenses, equipment rental, damage to equipment, depreciation or other charges and expenses chargeable to the services to be rendered to the Kansas turnpike authority~~: Provided further~~, except that the total amount of any credit and funds advanced hereunder shall not at any one time exceed the sum of ~~two hundred fifty thousand dollars ($250,000)~~ $250,000.

New Sec. 4. (a) The secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other to provide personnel and equipment and other resources, either of the department of transportation, the Kansas turnpike authority or consulting or contracting firms for: (1) Recordkeeping, reporting, administrative, planning, engineering, legal and clerical functions; and

(2) construction, operation and maintenance of turnpike projects and highways of the state.

(b) The Kansas turnpike authority shall retain its separate identity, powers and duties as an instrumentality of the state. Duplication of effort, facilities and equipment shall be minimized by the authority and the secretary of transportation in operation and maintenance of turnpikes and highways of the state. The authority and the secretary are authorized to take such action as necessary to implement this section, including the temporary transfer of personnel, property and equipment from the authority to the secretary, and the secretary to the authority, to effect contracts described in subsection (a). The integrity of the bonded indebtedness shall be maintained through the actions of the authority.

(c) The provisions of this section shall expire and have no effect on and after July 1, 2016.";

On page 1, in the title, in line 1, after concerning, by inserting "transportation; relating to"; also in line 1, after "authority;" by inserting "director of operations;";

And by renumbering sections accordingly;

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

TY MASTERSON
JIM DENNING
Conferees on part of Senate

RICHARD J. PROEHL
RONALD RYCKMAN, SR.
EMILY PERRY
Conferees on part of House

On motion of Rep. Proehl, the conference committee report on **HB 2234** was adopted.

On roll call, the vote was: Yeas 76; Nays 44; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Barker, Bideau, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, DeGraaf, Doll, Dove, Esau, Ewy, Gandhi, Garber, Goico, Grosserode, Hawkins, Hedke, Hermanson, Highland, Hildabrand, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, Moxley, O'Brien, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Becker, Bollier, Bridges, Burroughs, Carlin, Carpenter, Clayton, Davis, Dierks, Dillmore, Edmonds, Edwards, Finney, Frownfelter, Gonzalez, Grant, Henderson, Henry, Hibbard, Hill, Hineman, Houston, Kahrs, Kuether, Lane, Lusk, Meier, Menghini, Pauls, Perry, Rooker, Ruiz, Sloan, Sloop, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

EXPLANATION OF VOTE

MR. SPEAKER: I vote NO on **HB 2234** because this bill has way too much left to the unknown. The Turnpike is a well-managed program that should not be messed with.

Making the Secretary of Transportation as the Director of Operations is new.

Why do we need this? Why are we not doing a study as to what is needed for the Turnpike's sake? Why have we repealed good statutes and left the bad statutes in place?

I encourage my colleagues to change their votes to NO for this bill and send it back for more study and more answers. – JOE EDWARDS

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2052** submits the following report:

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

On page 2, in line 18, by striking "on the premises"; in line 19, by striking "of" and inserting "in"; in line 29, by striking "Subject to provisions of subsection (b),"; in line 31, by striking "concealed"; also in line 31, after "handgun" by inserting "or other firearm concealed or unconcealed"; in line 32, after "any" by inserting "secure area of a"; also in line 32, after "premises" by inserting ", except those areas of such building outside of a secure area and readily accessible to the public shall be subject to the provisions of subsection (b)";

On page 3, in line 1, after "of" by inserting "only"; following line 13, by inserting:

"(j) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution

from this section for a period of four years only by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

(1) A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(2) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(3) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;

(4) an indigent health care clinic, as defined by K.S.A. 2012 Supp. 65-7402, and amendments thereto; or

(5) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

(k) The provisions of this section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.";

And by redesignating remaining subsections accordingly;

Also on page 3, in line 23, by striking "shall" and inserting "may"; in line 26, after "thereto" by inserting ", but does not include school districts"; in line 32, after "(5)" by inserting "(A)"; following line 36, by inserting:

"(B) On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the term "state and municipal building" shall not include the state capitol.";

Also on page 3, following line 40, by inserting:

"New Sec. 3. (a) A license issued under K.S.A. 75-7c01 et seq., and amendments thereto, shall authorize the licensee to carry a concealed handgun in the state capitol in accordance with the provisions of K.S.A. 75-7c01 et seq., and amendments thereto.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2014, unless the legislative coordinating council determines that on July 1, 2014, the state capitol does have adequate security measures, as that term is defined in section 2, and amendments thereto, to ensure that no weapons are permitted to be carried into the state capitol. Such determination shall be made on or after June 1, 2014, but no later than July 1, 2014.

(c) This section shall be a part of and supplemental to the personal and family protection act.";

On page 4, by striking all in lines 32 through 34;

And by redesignating remaining paragraphs accordingly;

On page 5, in line 30, by striking "or"; following line 30, by inserting:

"(8) law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or";

Also on page 5, in line 31, by striking "(8)" and inserting "(9)";

On page 7, in line 7, by striking "or"; in line 18, after "thereto" by inserting "; or

(3) law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C, to possess a firearm";

Also on page 7, in line 25, by striking "Facilities" and inserting "Buildings"; in line

26, by striking "facilities" and inserting "buildings"; in line 35, by striking "facilities" and inserting "buildings"; in line 36, by striking "facility" and inserting "building"; in line 37, by striking "facility" and inserting "building";

On page 19, in line 33, by striking "premises are" and inserting "building is"; in line 34, by striking "premises" and inserting "a building";

On page 20, in line 38, by striking "premises are" and inserting "building is"; in line 40, by striking "premises" and inserting "a building";

On page 21, by striking all in lines 22 through 30 and inserting:

"(c) (1) Any private entity which provides adequate security measures in a private building and which conspicuously posts signage in accordance with this section prohibiting the carrying of a concealed handgun in such building as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(2) Any private entity which does not provide adequate security measures in a private building and which allows the carrying of a concealed handgun as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(3) Nothing in this act shall be deemed to increase the liability of any private entity where liability would have existed under the personal and family protection act prior to the effective date of this act.

(d) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may permit any employee, who is licensed to carry a concealed handgun as authorized by the provisions of K.S.A. 75-7c01 et seq., and amendments thereto, to carry a concealed handgun in any building of such institution, if the employee meets such institution's own policy requirements regardless of whether such building is conspicuously posted in accordance with the provisions of this section:

(1) A unified school district;

(2) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto;

(3) a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(4) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(5) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; or

(6) an indigent health care clinic, as defined by K.S.A. 2012 Supp. 65-7402, and amendments thereto.";

And by redesignating remaining subsections accordingly;

Also on page 21, in line 33, by striking "premises are" and inserting "building is";

On page 22, following line 14, by inserting:

"(f) On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.";

And by redesignating remaining subsections accordingly;

Also on page 22, in line 24, by striking "premises" and inserting "a building";
And your committee on conference recommends the adoption of this report.

RALPH OSTMEYER
JAY SCOTT EMLER
TOM HAWK
Conferees on part of Senate

ARLEN H. SIEGFREID
STEVEN R. BRUNK
LOUIS E. RUIZ
Conferees on part of House

On motion of Rep. Siegfreid, the conference committee report on **S Sub for HB 2052** was adopted.

On roll call, the vote was: Yeas 104; Nays 16; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Petty, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Sloan, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple.

Nays: Bollier, Bridges, Clayton, Finney, Henderson, Hill, Kuether, Perry, Phillips, Rooker, Ruiz, Sloop, Trimmer, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

EXPLANATION OF VOTE

MR. SPEAKER: With passage of this legislation a certainty, my vote today honors: Charlotte Bacon, Daniel Barden, Rachel D'Avino, Olivia Engel, Josephine Gay, Dylan Hockley, Dawn Lafferty Hochsprung, Madeleine Hsu, Catherine V. Hubbard, Chase Kowalski, Nancy Lanza, Jesse Lewis, Ana Marquez-Greene, James Mattioli, Grace McDonnell, Anne Marie Murphy, Emilie Parker, Jack Pinto, Noah Pozner, Caroline Previdi, Jessica Rekos, Aveille Richman, Lauren Rousseau, Mary Sherlach, Victoria Soto, Benjamin Wheeler, Allison N. Wyatt.

While we protect the Second Amendment rights of law-abiding citizens, it's imperative that we strengthen the mental health safety net and institute universal background checks to help reduce senseless gun violence.

I vote no on **S Sub for HB 2052**. – MELISSA ROOKER, GAIL FINNEY, KATHY WOLFE MOORE

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2253** submits the following report:

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

On page 5, following line 8, by inserting:

"New Sec. 10. (a) No person shall perform or induce an abortion or attempt to perform or induce an abortion with knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the unborn child.

(b) (1) A woman upon whom an abortion is performed or induced, or upon whom there is an attempt to perform or induce an abortion, in violation of this section, the father, if married to the woman at the time of the abortion, and the parents or custodial guardian of the woman, if the woman has not attained the age of 18 years at the time of the abortion, may in a civil action obtain appropriate relief, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct.

(2) Such relief shall include:

(A) Money damages for all injuries, psychological and physical, occasioned by the violation of this section;

(B) statutory damages equal to three times the cost of the abortion;

(C) injunctive relief; and

(D) reasonable attorney fees.

(c) A woman upon whom an abortion is performed shall not be prosecuted under this section for a conspiracy to violate this section pursuant to K.S.A. 2012 Supp. 21-5302, and amendments thereto.

(d) Nothing in this section shall be construed to create a right to an abortion. Notwithstanding any provision of this section, a person shall not perform an abortion that is prohibited by law.

(e) Upon a first conviction of a violation of this section, a person shall be guilty of a class A person misdemeanor. Upon a second or subsequent conviction of a violation of this section, a person shall be guilty of a severity level 10, person felony.

(f) If any provision or clause of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

(g) For purposes of this section, the term "abortion" has the same meaning as such term is defined in K.S.A. 65-6701, and amendments thereto.";

Also on page 5, in line 22, by striking "(b)"; following line 35, by inserting:

"(b) (1) For employers that have established a small employer health benefit plan after December 31, 1999, but prior to January 1, 2005, the amount of the credit allowed by subsection (a) shall be $35 per month per eligible covered employee or 50% of the total amount paid by the employer during the taxable year, whichever is less, for the first two years of participation. In the third year, the credit shall be equal to 75% of the lesser of $35 per month per employee or 50% of the total amount paid by the employer

during the taxable year. In the fourth year, the credit shall be equal to 50% of the lesser of $35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fifth year, the credit shall be equal to 25% of the lesser of $35 per month per employee or 50% of the total amount paid by the employer during the taxable year. For the sixth and subsequent years, no credit shall be allowed.";

Also on page 5, in line 36, before "For" by inserting "(2)";

On page 6, in line 17, by striking "2004" and inserting "1999";

On page 28, in line 23, after "care" by inserting "when such expenses were paid or incurred for abortion coverage"; in line 24, after "thereto," by inserting "when such expenses were paid or incurred for abortion coverage"; in line 28, by striking "an itemized" and inserting "a";

On page 32, in line 16, after "care" by inserting "when such expenses were paid or incurred for abortion coverage"; in line 17, after "thereto," by inserting "when such expenses were paid or incurred for abortion coverage";

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

MARY PILCHER-COOK
ELAINE BOWERS
Conferees on part of Senate

ARLEN H. SIEGFREID
STEVEN R. BRUNK
Conferees on part of House

On motion of Rep. Siegfreid, the conference committee report on **HB 2253** was adopted.

On roll call, the vote was: Yeas 90; Nays 30; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcala, Alford, Barker, Becker, Bideau, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hineman, Hoffman, Houser, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meier, Meigs, Merrick, Montgomery, Moxley, O'Brien, Pauls, Peck, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfreid, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Waymaster, Weber.

Nays: Ballard, Bollier, Bridges, Burroughs, Carlin, Clayton, Davis, Dillmore, Finney, Frownfelter, Henderson, Hill, Houston, Kuether, Lane, Lusk, Menghini, Perry, Rooker, Ruiz, Sloan, Sloop, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Finch, Osterman, Peterson, Sawyer, Tietze.

CONFERENCE COMMITTEE REPORT

On motion of Rep. Siegfreid to not adopt the conference committee report on **S**

Sub for HB 2199 (see previous action, p. 770 of this Journal) and that a new conference committee be appointed, the motion prevailed.

Speaker pro tem Mast thereupon appointed Reps. Siegfreid, Brunk and Ruiz as second conferees on the part of the House.

REPORT ON ENGROSSED BILLS

Sub HB 2024; HB 2109 reported correctly engrossed April 5, 2013.

REPORT ON ENROLLED BILLS

HB 2012, HB 2083, HB 2106, HB 2135, HB 2144, HB 2160, HB 2170, HB 2200; Sub HB 2207; HB 2212, HB 2217, HB 2221, HB 2228, HB 2278, HB 2294, HB 2302, HB 2322, HB 2326, HB 2353, HB 2368 reported correctly enrolled, properly signed and presented to the Governor on April 5, 2013.

On motion of Rep. Vickrey, the House adjourned until 2:00 p.m, Wednesday, May 8, 2013.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*