

Journal of the Senate

FORTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 20, 2006—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Brungardt was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Sometimes I wish I could move that when the committee rises to report that it reports love, joy, and peace favorably for passage.

I also would like to move that when the committee rises to report that it reports patience, kindness, and goodness favorably for passage.

And also I would like to move that when the committee rises to report that it reports faithfulness, gentleness and self-control favorably for passage.

The reason I have chosen those nine virtues is because Your apostle Paul in his letter to the Galatians identified them as the "fruit of the Spirit." And then he added, "Against such there is no law." (Galatians 5:22-23)

I pray in the Name of Jesus Christ,

AMEN

POINT OF PERSONAL PRIVILEGE

Senator Teichman introduced her husband, Dennis, son, Mark and his wife, Lisa Fincham, and grandchildren Jenna and Cole Fincham, who were visiting the Senate.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 593. An act concerning lotteries; enacting the Kansas expanded lottery act; authorizing operation of certain lottery gaming facilities, electronic gaming machines, video lottery terminals and other lottery games at certain locations; prohibiting certain acts and providing penalties for violations; making appropriations for the fiscal year ending June 30, 2006; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830 and 74-8832 and K.S.A. 2005 Supp. 19-101a and 74-8711 and repealing the existing sections, by Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

SB 275, SB 325, SB 392, SB 496 approved on March 20, 2006.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF CREDIT UNIONS

March 7, 2006

As required by K.S.A. 17-2244(b), John P. Smith, Administrator, reported that special orders have been issued to seven credit unions, allowing them parity to engage in an activity in which Missouri chartered credit unions operating in Kansas are allowed to perform.

KANSAS HIGHWAY PATROL
March 15, 2006

William R. Seck, Colonel, Superintendent, submitted the Kansas Highway Patrol's 2005 Annual Report. The report has been posted online at *www.kansashighwaypatrol.org*.

The President announced the Department of Credit Unions report is on file in the office of the Secretary of the Senate and is available for review at any time. The Kansas Highway Patrol report can be viewed online.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2957, HB 2958, HB 2968.**

Also, passage of **SB 495.**

The House accedes to the request of the Senate for a conference on **House Substitute for SB 207** and has appointed Representatives Shultz, Carter and Dillmore as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 481** and has appointed Representatives Decker, Horst and Storm as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2104**, requests a conference and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2786**, requests a conference and has appointed Representatives Neufeld, Landwehr and Feuerborn as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2833**, requests a conference and has appointed Representatives D. Johnson, F. Miller and Svaty as conferees on the part of the House.

Announcing passage of **Substitute HB 2396; HB 2813, HB 2880, HB 2972.**

Passage of **SB 554.**

Also, passage of **SB 35**, as amended by **House Substitute for SB 35; SB 76**, as amended, by **House Substitute for SB 76; SB 261**, as amended, **SB 332**, as amended, **SB 336**, as amended, **SB 344**, as amended, **SB 350**, as amended, **SB 374**, as amended, **SB 434**, as amended, **SB 479**, as amended, **SB 485**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2396; HB 2813, HB 2880, HB 2957, HB 2958, HB 2968, HB 2972 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2104.**

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2786.**

The President appointed Senators Umbarger, Emler and Barone as conferees on the part of the Senate.

On motion of Senator Taddiken, the Senate acceded to the request of the House for a conference on **HB 2833.**

The President appointed Senators Taddiken, Pine and Francisco as conferees on the part of the Senate.

REPORT ON ENGROSSED BILLS

SB 575, SB 585; SCR 1623 reported correctly engrossed March 20, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2573** be passed.

Committee on **Commerce** recommends **HB 2696**, as amended by House Committee, be amended on page 1, in line 24, by striking "80%" and inserting "75%";

On page 3, in line 1, by striking “80%” and inserting “75%”; and the bill be passed as amended.

Committee on **Education** recommends **HB 2602** be passed.

Also, **HB 2593**, as amended by House Committee of the Whole, be amended on page 2, in line 30, by striking all following “dependents”; in line 31, by striking all preceding the period;

On page 4, in line 5, by striking “section 1” and inserting “K.S.A. 75-4101”; and the bill be passed as amended.

Committee on **Judiciary** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Attorney General:

Crime Victims Compensation Board: K.S.A. 74-7303

Roger S. Villanueva, term expires March 15, 2010

SB 568 be passed; also **HB 2893**, as amended by House Committee, be passed.

HB 2576, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 25 through 43;

By striking all on pages 2 through 53;

On page 54, by striking all in lines 1 through 7 and inserting the following to read as follows:

“New Section 1. (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 paragraphs (3)(A) through (3)(J) or (3)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted on at least two prior conviction events of any sexually violent crime.

(2) “Prior conviction event” means one or more felony convictions of a sexually violent crime occurring on the same day and within a single count. These convictions may result from multiple counts within an information or from more than one information. If a person crosses a county line and commits a felony as part of the same criminal act or acts, such felony, if such person is convicted, shall be considered part of the prior conviction event.

(3) “Sexually violent crime” means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto;

(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;

(L) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section; or

(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.

New Sec. 2. (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 paragraph (2):

(A) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;

(D) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;

(E) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age;

(F) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; and

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in paragraphs (A) through (F).

(2) The provision of paragraph (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 section 1, 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) 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) or a crime under a law of another jurisdiction which is substantially the same as such crime, 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.

(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), 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) On or after July 1, 2006, for a first time conviction of an offense listed in paragraph (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 sentencing guidelines act, K. S. A. 21-4701 et seq., and amendments thereto, and no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder. As used in this subsection, mitigating circumstances shall include, but are not limited to, the following:

- (1) The defendant has no significant history of prior criminal activity.
- (2) The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.
- (3) The victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor.
- (4) The defendant acted under extreme distress or under the substantial domination of another person.
- (5) 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.
- (6) The age of the defendant at the time of the crime.

New Sec. 3. (a) Unlawfully tampering with electronic monitoring equipment is intentionally removing, disabling, altering, tampering with, damaging or destroying any electronic monitoring equipment used pursuant to court order or as a condition of parole.

- (b) The provisions of this section shall not apply to:
 - (1) The owner of the equipment, or an agent of the owner, performing ordinary maintenance and repairs upon such equipment; or
 - (2) an employee of the department of corrections acting within such employee's scope of employment.
- (c) Unlawfully tampering with electronic monitoring equipment is a severity level 6, non-person felony.
- (d) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 4. K.S.A. 2005 Supp. 21-3502 is hereby amended to read as follows: 21-3502. (a) Rape is: (1) Sexual intercourse with a person who does not consent to the sexual intercourse, under any of the following circumstances:

- (A) When the victim is overcome by force or fear;
- (B) when the victim is unconscious or physically powerless; or
- (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;
- (2) sexual intercourse with a child who is under 14 years of age;
- (3) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or
- (4) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

(b) It shall be a defense to a prosecution of rape under subsection (a)(2) that the child was married to the accused at the time of the offense.

(c) *Except as provided further*, rape as described in subsection (a)(1) or (2) is a severity level 1, person felony. *Rape as described in subsection (a)(2), when the offender is 18 years of age or older, is an off-grid person felony.* Rape as described in subsection (a)(3) or (4) is a severity level 2, person felony.

Sec. 5. K.S.A. 21-3506 is hereby amended to read as follows: 21-3506. (a) Aggravated criminal sodomy is:

- (1) Sodomy with a child who is under 14 years of age;
- (2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or
- (3) sodomy with a person who does not consent to the sodomy or causing a person, without the person's consent, to engage in sodomy with any person or an animal, under any of the following circumstances:
 - (A) When the victim is overcome by force or fear;
 - (B) when the victim is unconscious or physically powerless; or
 - (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender.

(b) It shall be a defense to a prosecution of aggravated criminal sodomy under subsection (a)(1) that the child was married to the accused at the time of the offense.

(c) *Except as provided further*, aggravated criminal sodomy is a severity level ~~2~~¹, person felony. *Aggravated criminal sodomy as described in subsection (a)(1) or (a)(2), when the offender is 18 years of age or older, is an off-grid person felony.*

Sec. 6. K.S.A. 2005 Supp. 21-3447 is hereby amended to read as follows: 21-3447. (a) Aggravated trafficking is:

(1) Trafficking, as defined in K.S.A. 2005 Supp. 21-3446, and amendments thereto:

(A) Involving the commission or attempted commission of kidnapping, as defined in K.S.A. 21-3420, and amendments thereto;

(B) committed in whole or in part for the purpose of the sexual gratification of the defendant or another; or

(C) resulting in a death; or

(2) recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.

(b) *Except as provided further*, aggravated trafficking is a severity level 1, person felony. *When the offender is 18 years of age or older, aggravated trafficking, if the victim is less than 14 years of age, is an off-grid person felony.*

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

Sec. 7. K.S.A. 21-3504 is hereby amended to read as follows: 21-3504. (a) Aggravated indecent liberties with a child is:

(1) Sexual intercourse with a child who is 14 or more years of age but less than 16 years of age;

(2) engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age and who does not consent thereto:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or satisfy the sexual desires of either the child or the offender, or both; or

(B) causing the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another; or

(3) engaging in any of the following acts with a child who is under 14 years of age:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(B) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(b) It shall be a defense to a prosecution of aggravated indecent liberties with a child as provided in subsection (a)(1), (a)(2)(A) and (a)(3)(A) that the child was married to the accused at the time of the offense.

(c) *Except as provided further*, aggravated indecent liberties with a child as described in subsections (a)(1) and (a)(3) is a severity level 3, person felony. Aggravated indecent liberties with a child as described in subsection (a)(2) is a severity level 4, person felony. *When the offender is 18 years of age or older, aggravated indecent liberties with a child as described in subsection (a)(3) is an off-grid person felony.*

Sec. 8. K.S.A. 21-3513 is hereby amended to read as follows: 21-3513. (a) Promoting prostitution is:

(1) Establishing, owning, maintaining or managing a house of prostitution, or participating in the establishment, ownership, maintenance, or management thereof;

(2) permitting any place partially or wholly owned or controlled by the defendant to be used as a house of prostitution;

(3) procuring a prostitute for a house of prostitution;

(4) inducing another to become a prostitute;

(5) soliciting a patron for a prostitute or for a house of prostitution;

(6) procuring a prostitute for a patron;

(7) procuring transportation for, paying for the transportation of, or transporting a person within this state with the intention of assisting or promoting that person's engaging in prostitution; or

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

(b) (1) Promoting prostitution is a class A person misdemeanor when the prostitute is 16 or more years of age.

(2) Promoting prostitution when the prostitute is 16 or more years of age is a severity level 7, person felony if committed by a person who has, prior to the commission of the crime, been convicted of promoting prostitution.

(3) *Except as provided in paragraph (4)*, promoting prostitution is a severity level 6, person felony when the prostitute is under 16 years of age.

(4) *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.*

Sec. 9. K.S.A. 2005 Supp. 21-3516 is hereby amended to read as follows: 21-3516. (a) Sexual exploitation of a child is:

(1) *Except as provided in subsection (a)(5)*, employing, using, persuading, inducing, enticing or coercing a child under 18 years of age to engage in sexually explicit conduct for the purpose of promoting any performance;

(2) possessing any visual depiction, including any photograph, film, video picture, digital or computer generated image or picture, whether made or produced by electronic, mechanical or other means, where such visual depiction of a child under 18 years of age is 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, the child or another;

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); ~~or~~

(4) *except as provided in subsection (a)(6)*, promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance;

~~(5) employing, using, persuading, inducing, enticing or coercing a child under 14 years of age to engage in sexually explicit conduct for the purpose of promoting any performance; or~~

~~(6) promoting any performance that includes sexually explicit conduct by a child under 14 years of age, knowing the character and content of the performance.~~

(b) As used in this section:

(1) "Sexually explicit conduct" means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation; sado-masochistic abuse for the purpose of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person.

(2) "Promoting" means procuring, selling, providing, lending, mailing, delivering, transferring, transmitting, distributing, circulating, disseminating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising;

(A) For pecuniary profit; or

(B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender, the child or another.

(3) "Performance" means any film, photograph, negative, slide, book, magazine or other printed or visual medium, any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk or any play or other live presentation.

(4) "Nude" means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(c) Sexual exploitation of a child *as described in subsection (a)(1), (a)(2), (a)(3) or (a)(4)* is a severity level 5, person felony. *Sexual exploitation of a child as described in subsection (a)(5) or (a)(6) when the offender is 18 years of age or older is an off-grid person felony.*

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

Sec. 10. K.S.A. 21-3812 is hereby amended to read as follows: 21-3812. (a) Aiding a felon is knowingly harboring, concealing or aiding any person who has committed a felony under the laws of this state, *other than a violation of K.S.A. 22-4903, and amendments thereto*, or another state or the United States with intent that such person shall avoid or escape from arrest, trial, conviction or punishment for such felony.

Aiding a felon is a severity level 8, nonperson felony.

(b) Aiding a person charged with a felony is knowingly harboring, concealing or aiding a person who has been charged with a felony under the laws of this state, *other than a violation of K.S.A. 22-4903, and amendments thereto*, or another state or the United States with intent that such person shall avoid or escape from arrest, trial, conviction or punishment for such felony.

Aiding a person charged with a felony is a severity level 8, nonperson felony.

~~(c) Aiding a person convicted of or charged with committing a misdemeanor.~~

(c) Aiding a person who has been convicted of or who has been charged with committing a misdemeanor under the laws of Kansas or another state is knowingly concealing or aiding such person with intent that such person shall avoid or escape from arrest, trial, conviction or punishment for such misdemeanor.

Aiding a person convicted of or charged with committing a misdemeanor is a class C misdemeanor.

(d) *Aiding a person required to register under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, is knowingly harboring, concealing or aiding any person who is required to register under the act and who is not in compliance with the requirements of the act with intent that such person shall avoid or escape from registration, arrest, trial, conviction, punishment or any criminal charges arising from the person's failure to comply with the requirements of the act.*

Aiding a person required to register under the Kansas offender registration act is a severity level 5, person felony.

Sec. 11. K.S.A. 2005 Supp. 21-4706 is hereby amended to read as follows: 21-4706. (a) For crimes committed on or after July 1, 1993, the sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of up to 15% of the primary sentence for good time as authorized by law.

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

(c) Violations of K.S.A. 21-3401, 21-3439 and 21-3801 and amendments thereto are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A. 21-4622 through 21-4627, and 21-4629 through 21-4631, and amendments thereto, the sentence shall be imprisonment for life.

(d) *As identified in K.S.A. 21-3502, 21-3404, 21-3506, 21-3513, 21-3516 and K.S.A. 2005 Supp. 21-3447, 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 section 1, and amendments thereto, the sentence shall be imprisonment for life pursuant to section 2, and amendments thereto.*

Sec. 12. K.S.A. 2005 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, and amendments thereto; K.S.A. 8-1567, and amendments thereto; *section 1, and amendments thereto*; and K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, 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, 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 and K.S.A. 21-4635 through 21-4638, 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, 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, and amendments thereto, 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 section 2, 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)~~ (A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

~~(B)~~ (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 section 2, 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 level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time earned and retained pursuant to K.S.A. 21-4722, 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 and drug severity level 3 crimes must serve 24 months, plus the amount of good time earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time earned and retained pursuant to K.S.A. 21-4722, 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 violent or~~ 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, 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, 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 parole 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, and amendments thereto.

(vi) Upon petition, the parole 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 parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the ~~habitual sex~~ offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(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 section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) ~~any conviction for a felony offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (A) through (I), or 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~~ *aggravated incest, K.S.A. 21-3603, and amendments thereto; or*

(K) ~~an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302; or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section;~~

~~(L) 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.

(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 Kansas parole 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, and amendments thereto, 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 Kansas parole 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 Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole 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, for 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 Kansas parole 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 the 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 Kansas parole 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; 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; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates 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 post-release supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before 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 Kansas parole 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 parole 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 parole 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 parole 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 parole 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.

(k) 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.

(l) The Kansas parole board shall adopt 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 Kansas parole 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. 2005 Supp. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(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 parole 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.

(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 Kansas parole 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 Kansas parole board grants the parole of an inmate, the board, within 10 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 the effective date of this act 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 level 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 level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 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 section 2, 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 Kansas parole 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 Kansas parole board or the court orders a person to be electronically monitored, the board or court 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 or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

Sec. 13. K.S.A. 2005 Supp. 22-4903 is hereby amended to read as follows: 22-4903. Any person who is required to register as provided in ~~this~~ *the Kansas offender registration act* who violates any of the provisions of ~~this~~ *such act*, including all duties set out in K.S.A. 22-4904 through ~~K.S.A.~~ 22-4907, and amendments thereto, is guilty of a severity level ~~10~~ *nonperson 5, person felony*.

Sec. 14. K.S.A. 74-9101 is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the Kansas parole board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including but not limited to the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing

guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 21-4725, and amendments thereto;

(8) prepare and submit fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for (A) reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such options impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1; ~~and~~

(16) at the request of the governor or the joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) *develop information relating to the number of offenders on postrelease supervision and subject to electronic monitoring for the duration of the person's natural life; and*

(18) *determine the effect the mandatory sentencing established in section 1 and section 2, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.*

Sec. 15. K.S.A. 2005 Supp. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the super-

intendent of the highway patrol, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) The governor shall designate staff to the Kansas criminal justice coordinating council. The staff shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses;

(2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

(3) perform such criminal justice studies or tasks as requested by the governor, the attorney general, the legislature or the chief justice, as deemed appropriate or feasible by the council;

(4) oversee development and management of a criminal justice database including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amendments thereto and the juvenile justice authority shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database;

(5) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants;

(6) form such task groups as necessary and appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, when analyzing criminal justice issues and performing criminal justice studies. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council; ~~and~~

(7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate; *and*

(8) *form a task force composed of 11 members who are representatives of law enforcement, prosecutors, the judiciary, court services, community corrections, parole services and victims rights organization representatives for the purpose of collecting information and research concerning the potential utilization of electronic monitoring devices, specifically including devices capable of utilizing global positioning satellite (GPS) technology, for the purposes of monitoring and tracking the locations of offenders placed on bond, probation, parole, post-release supervision and individuals subject to civil commitment of sexually violent predators, pursuant to K.S.A. 59-29a01, and amendments thereto, who have been placed on conditional or transitional release. On or before July 1, 2007, the task force shall submit its findings in writing to the governor, the attorney general, the speaker of the house of representatives and the president of the senate. Such report shall include, but not be limited to: (A) An evaluation of the effectiveness of such electronic monitoring devices regarding abilities to track and record the geographic location of a monitored individual at any given point in time; (B) a cost-benefit analysis of the financial costs involved in obtaining, monitoring and*

providing on-going maintenance for various electronic monitoring devices or systems as compared to the potential benefit of increased ability to locate, track and supervise monitored individuals; (C) a cost-benefit analysis comparing the costs of purchase of electronic monitoring equipment and the equipment and software necessary for tracking monitored individuals by governmental agencies to operate independently versus contracting with vendors to provide the necessary equipment and services; and (D) an analysis by geographic region within the state of Kansas detailing areas where, due to geography or lack of necessary infrastructure such as radio transmission towers, electronic monitoring may be more or less effective. Subject to appropriations therefor, the council may contract with other entities to provide evaluation and comparison studies or other resources necessary to aid in the development of the report mandated by this paragraph.

New Sec. 16. In the event the term of imprisonment for life without the possibility of parole or any provision of this act authorizing such term is held to be unconstitutional by the supreme court of Kansas or the United States supreme court, the court having jurisdiction over a person previously sentenced shall cause such person to be brought before the court and shall modify the sentence to require no term of imprisonment for life without the possibility of parole and shall sentence the defendant to the maximum term of imprisonment otherwise provided by law.

New Sec. 17. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

New Sec. 18. Sections 19 through 40 may be referred to as the private contract prison act.

New Sec. 19. As used in the private contract prison act:

(a) "Private contract prison" means a correctional facility situated in this state that is not owned by the state of Kansas or any subdivision thereof or by the federal government or any subdivision thereof.

(b) "Private owner" means any corporation, partnership, limited liability company, trust, person or other legal entity that engages in, or proposes to engage in, the construction or ownership or both of a private contract prison in this state.

(c) "Private operator" means any corporation, partnership, limited liability company, person or other legal entity that engages in, or proposes to engage in, the operation of a private contract prison in this state.

(d) "Private contractor" means a private owner or a private operator or both.

(e) "Secretary" means the secretary of corrections.

(f) "Department" means the department of corrections.

(g) "Applicant" means a private contractor making application to the department of corrections for a license as provided by this act.

(h) "Licensee" means a private contractor to which a valid license has been issued by the department of corrections as provided by this act.

(i) "Private correctional officer" means a correctional officer as defined by subsection (f) of K.S.A. 75-5202, and amendments thereto, except that such officer is not an employee of the state of Kansas or any subdivision thereof.

(j) "Non-Kansas inmate" means any inmate in the custody of any jurisdiction other than the state of Kansas or any of its political subdivisions.

(k) "Kansas inmate" means any inmate in the custody of the secretary of corrections.

New Sec. 20. Except as authorized by K.S.A. 75-52,127 or 75-52,133, and amendments thereto, no private contractor shall authorize, construct, own or operate any private contract prison in this state for the placement or confinement of inmates unless such private contractor possesses a valid license as provided by this act.

New Sec. 21. The secretary is hereby authorized to license, monitor and regulate one or more private contractors meeting the requirements of this act to construct, own or operate one or more private contract prisons in this state.

New Sec. 22. The secretary shall not approve any application for a license pursuant to this act unless the secretary has, after due diligence, made the following findings:

(a) The applicant has the qualifications, experience and management personnel necessary to design, construct, own or operate a private contract prison in a manner that satisfies the requirements of this act;

(b) the applicant has the ability, if circumstances warrant, to expedite the siting, design and construction of a private contract prison;

(c) the applicant has the ability to comply with applicable laws, court orders and state and national correctional standards; and

(d) if Kansas inmates are being housed in the private contract prison, the private operator has the ability to provide correctional services to the state of Kansas at a cost that is no more than 90% of the department's average per capita operating cost for the previous fiscal year for comparable state correctional facilities and services.

New Sec. 23. Any license issued pursuant to this act shall require as conditions of such license all of the following:

(a) All private correctional officers employed by the licensee must be certified, at the licensee's expense, as having met the minimum qualifications and training requirements established for correctional officers by the secretary and as are required of state correctional officers;

(b) the design for any private contract prison constructed, owned or operated by the licensee shall meet or exceed all requirements of the association responsible for adopting national correctional standards consistent with the American correctional association standards as determined by the secretary;

(c) the design for any private contract prison, including, but not limited to, siting, shall meet or exceed any standard established by the secretary;

(d) the licensee shall at all times consult the secretary during the design and construction of the private contract prison;

(e) the licensee shall indemnify the state and the secretary, including their subdivisions, officials and agents, against any and all liability including, but not limited to, any civil rights claims. The secretary shall require proof of satisfactory insurance, the amount to be determined by the secretary;

(f) the licensee shall seek, obtain and maintain accreditation by the American correctional association and the national commission on correctional health care. In addition, the licensee shall comply with those associations' amendments to the accreditation standards upon approval of such amendments by the secretary. The secretary shall not unreasonably withhold approval so as to facilitate compliance with required standards by the licensee;

(g) the licensee shall agree to abide by operations standards for correctional facilities as adopted by the secretary;

(h) if Kansas inmates are being housed in the private contract prison, the licensee shall be responsible for the range of dental, medical and psychological services and diet, education and work programs at least equal to those services and programs provided by the secretary at comparable state correctional facilities. The work and education programs shall be designed to reduce recidivism;

(i) the secretary shall monitor all private contract prisons and the secretary and the department shall have unrestricted access to all private contract prisons for that purpose. The licensee shall bear the costs of monitoring the facility;

(j) if the department contracts to house Kansas inmates at the licensee's private contract prison, the licensee shall incarcerate all inmates assigned to the private contract prison by the department and as specified by the contract and may not reject inmates assigned to it by the department. The department shall have the right of first refusal to any space in the licensee's private contract prison, whether or not such space is occupied by non-Kansas inmates. The department may not exceed the maximum occupancy designated in the contract for the private contract prison;

(k) the licensee may not benefit financially from the labor of inmates except that inmates housed in any private contract prison operated by the licensee in this state may be given job assignments that assist in the operation and maintenance of the facility, including but not limited to janitorial or food service, or constitute work crews for the state or nearby communities if the inmates have the appropriate custody designation;

(l) if the licensee enters into a contract to house non-Kansas inmates, the licensee must require as a condition of that contract that each such inmate to be released from custody must be released in the sending state;

(m) whenever any non-Kansas inmate is proposed to be brought into this state for the purpose of being incarcerated at a private contract prison, all records regarding each such inmate, including, but not limited to, custody records, facility history records, disciplinary records and medical and mental health records, shall be reviewed by the department prior to such inmate being transported into this state. The cost of such review shall be borne by the licensee through the administration of the licensing fee pursuant to section 21, and amendments thereto. The secretary shall have authority to refuse to allow any non-Kansas inmate to be transported to or incarcerated in any private contract prison;

(n) the licensee shall be subject to review by the legislative division of post audit; and

(o) any other provision the secretary considers necessary and appropriate for carrying out the purpose of this act.

New Sec. 24. No license issued pursuant to this act shall be construed as authorizing, allowing or delegating authority to the licensee to:

(a) With regard to Kansas inmates being housed at a private contract prison, reject any inmate appropriately classified by the Kansas custody classification system for the custody level or levels of the private facility;

(b) with regard to Kansas inmates who are being housed at a private contract prison, develop or adopt disciplinary rules or penalties that differ from the disciplinary rules and penalties that apply to inmates housed in correctional facilities operated by the secretary. With regard to non-Kansas inmates, the licensee may develop or adopt disciplinary rules or penalties consistent with the requirements of the sending entity provided that the secretary shall retain authority to review and approve or reject any such rules or penalties;

(c) make a final determination on a disciplinary action that affects the liberty of an inmate. The licensee may remove an inmate from the general prison population during an emergency, before final resolution of a disciplinary hearing in response to an inmate's request for assigned housing in protective custody or when otherwise necessary to maintain order and security of the private contract prison;

(d) make a decision that affects the sentence imposed upon or the time served by an inmate, including a decision to award, deny or forfeit earned time;

(e) make recommendations to the Kansas parole board with respect to the denial or granting of parole or release except the licensee may submit written reports to the Kansas parole board and shall respond to any written request for information by the Kansas parole board;

(f) develop and implement requirements that inmates engage in any type of work not previously authorized in this act, except to the extent that those requirements are accepted by the department; and

(g) determine inmate eligibility for any form of release from a correctional facility including any private contract prison.

New Sec. 25. (a) No private contract prison shall house inmates until:

(1) The private operator has submitted to the secretary, and the secretary has approved, a plan for the secretary to assume temporary control and operation of the private contract prison in the event the private operator becomes unable to meet the requirements of this act;

(2) each private contractor, whether a private owner or a private operator, or both, involved in the private contract prison has submitted to the secretary, and the secretary has approved, a plan for the temporary assumption of operations and purchase of the private contract prison by the secretary in the event of bankruptcy or the financial insolvency of any such private contractor;

(3) the private operator has submitted to the secretary, and the secretary has approved, a plan to address emergencies including, but not limited to, inmate disturbances, employee work stoppages, employee strikes, escapes, natural disaster threats, bomb threats, riots, hunger strikes, taking of hostages, fires, explosions, evacuations, hazardous material spills or other serious events. The plan shall comply with applicable national correctional standards. The plan shall identify how the state shall recover its costs for such assumptions of

operation or other interventions. The private operator shall be liable for all expenses incurred by the state and its subdivisions in responding to any emergency or serious event. Such expenses shall be consistent with the department's policies and procedures concerning such emergency or serious event; and

(4) the private operator shall reimburse Kansas state agencies or political subdivisions of the state for all costs incurred by such entities with respect to the investigation, prosecution, detention, criminal defense or appellate litigation, without regard to whether conviction is obtained, of a Kansas or non-Kansas inmate charged with a crime resulting from criminal conduct allegedly committed within the private contract prison, or a non-Kansas inmate who escapes and allegedly commits criminal conduct.

(b) The secretary may from time to time require the private contractor to review, revise or update any plan required by this section. The private contractor shall comply promptly with any request by the secretary pursuant to this subsection, and failure by any private contractor to do so within a reasonable period of time shall constitute cause for suspension of such private contractor's license.

(c) Nothing in this section shall be construed to require the state to purchase or lease any private contract prison or to assume responsibility for the operation of any private contract prison or to assume costs associated with events described in this section.

New Sec. 26. The secretary may suspend or revoke a license for cause, including, but not limited to, failure to obtain or maintain facility accreditation or failure to comply with any requirement of this act, after written notice of material deficiencies and after 60 workdays have been provided to the contractor to submit a plan of action to correct the material deficiencies.

New Sec. 27. If, as determined by the secretary, an emergency occurs involving the noncompliance with or violation of the requirements of this act and presents a serious threat to the safety, health or security of the inmates, employees or the public, the secretary may require immediate or timely corrective action or may, without prior notice, temporarily assume operation and control of the private contract prison. Nothing in this section shall be construed to require the state to assume responsibility for the operation of private contract prisons or for costs associated with events described in this section. If the state chooses, it may assume responsibility upon approval by the legislature through the enactment of legislation.

New Sec. 28. If a private owner intends to sell, convey, transfer, donate, trade, barter or otherwise alienate title to a private contract prison, the private owner shall first give notice of such intent to the secretary. The state shall have the right of first refusal to lease or purchase such private contract prison at fair market value, although the state shall not be required to do so. Except as provided in this section, a private contract prison may be transferred only to an entity that is licensed as required by this act.

New Sec. 29. Each private operator shall require applicants for employment at a private contract prison to submit a set of fingerprints to the Kansas bureau of investigation for a criminal background check. The Kansas bureau of investigation may accept fingerprints of individuals who apply for employment at a private contract prison and who shall be subject to background checks. For the purpose of conducting background checks, to the extent provided for by federal law, the Kansas bureau of investigation may exchange with the secretary criminal history records, whether state, multi-state or federal, of individuals who apply for employment at a private contract prison.

New Sec. 30. This act shall not apply to the contracts between cities and counties and the secretary under which the city or county agrees to house the backlog of inmates as provided by K.S.A. 75-52,128 and 75-52,129, and amendments thereto, which contracts shall be governed by such.

New Sec. 31. Any private operator licensed under this act shall collect and maintain data with respect to all Kansas and non-Kansas inmates housed by the private contractor, in a fashion compatible with Kansas department of corrections practices and procedures for inmate data collection and maintenance, as specified by the secretary.

New Sec. 32. (a) Any county that meets the requirements of this section may contract with a private contractor to develop and construct, own or operate a private contract prison in such county.

(b) No private contract prison shall be constructed, owned or operated pursuant to this act in any county unless the county commission has received written notice of approval from the sheriff of such county and the secretary of corrections. Upon receipt of such notice, the board shall adopt a resolution placing on the ballot the question in subsection (c). No private prison shall be constructed pursuant to this section until the question has been submitted to and approved by a majority of the qualified voters of the county voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law.

(c) The form of the question described in subsection (b) shall be: "Shall construction and operation of a private contract prison, pursuant to the Private Contract Prison Act, be allowed in _____ County?"

(d) Except for land donation, no direct incentives, such as property tax abatement, industrial revenue bonds, tax increment financing or utility cost reductions, shall be offered by the county to the private contractor wishing to construct, own or operate a private contract prison in such county.

(e) At the discretion of the parties, the contract may allow for the leasing of the private contract prison by the private owner to the county or to the state.

New Sec. 33. No contract for site construction between the county and the private contractor authorized by this act shall enter into force until reviewed and approved by the attorney general, as to form and legal sufficiency, and the secretary, as to the determination of the best interests of the state of Kansas.

New Sec. 34. A contract entered into under this act does not accord third-party beneficiary status to any inmate or to any member of the general public.

New Sec. 35. In the event any provision of any contract authorized by this act conflicts with any provision of any license issued pursuant to this act, the provision of the license shall supersede the provision of the contract. In the event any provision of any contract authorized by this act conflicts with any provision of this act, the provision of this act shall supersede the provision of the contract.

New Sec. 36. Nothing in this act shall be construed as requiring the department of corrections to place Kansas inmates in any private facility constructed, owned or operated pursuant to this act. Placement of Kansas inmates in such private facility shall be at the discretion of the secretary based on department needs and the best interest of the state and shall only be pursuant to contract between the secretary and the private operator.

New Sec. 37. Not later than December 1 of each year, beginning with the 2006 fiscal year, the secretary shall submit a report to the speaker of the house of representatives and the president of the senate concerning the status of contracts in effect and licenses issued, and with respect to completed prisons, the effectiveness of each private contract prison operated pursuant to this act.

New Sec. 38. There is hereby created in the state treasury the corrections licensing fee fund. All moneys collected by the secretary from licensing application fees, monitoring fees, and any other fees authorized by this act 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 corrections licensing fee fund. All the moneys collected and deposited pursuant to this subsection shall be used solely for payment of the costs associated with the implementation and enforcement of this act. The secretary shall establish rules and regulations prescribing the fees necessary for the implementation and enforcement of this act.

Sec. 39. K.S.A. 2005 Supp. 75-52,129 is hereby amended to read as follows: 75-52,129.

(a) The secretary of corrections is hereby authorized to negotiate and enter into contracts with Kansas cities and counties for the placement of inmates, who are classified as medium custody or any higher custody or security classification, in facilities owned and operated by the cities and counties. If the secretary of corrections proposes to place any inmates classified as medium custody or any higher custody classification for confinement in facilities other than correctional or other institutions or facilities owned and operated by the department of corrections or any other state agency, the secretary of corrections shall give first consideration to entering into contracts with Kansas cities and counties under this section before attempting to place any such inmate for confinement at any *private contract prison*, as

defined in section 2, and amendments thereto, or any location outside the state of Kansas if the facilities to be provided under such contracts are substantially equal to *private contract prisons or facilities* at locations outside the state of Kansas and if arrangements can be made in a timely manner. Except as provided in subsection (b), the provisions of this section and any contract or preliminary letter of commitment entered into pursuant to this section shall not apply to any minimum custody or community custody status inmates, or any other custody or security classification lower than medium custody, or to any inmate who may be placed in a work release or prerelease program, center or facility by the secretary of corrections, who is eligible for parole or who is placed pursuant to the interstate corrections compact. Contracts entered into pursuant to this section shall not be subject to competitive bid requirements under K.S.A. 75-3739 and amendments thereto.

(b) The secretary shall not enter into any contract as provided in subsection (a) with any city or county of this state for the placement of inmates that does not provide that such city or county shall provide and maintain appropriate and recognized standards of safety, health and security.

Sec. 40. K.S.A. 21-3504, 21-3506, 21-3513, 21-3812 and 74-9101 and K.S.A. 2005 Supp. 21-3447, 21-3502, 21-3516, 21-4706, 22-3717, 22-4903, 74-9501 and 75-52,129 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, by striking all in lines 15 and 16; in line 17, by striking all preceding the semicolon and inserting “lifetime parole for certain offenders; duties of the Kansas sentencing commission and the criminal justice coordinating council; tampering with an electronic monitoring device; private correctional facilities”; also in line 17, by striking all following “K.S.A.”; by striking all in lines 18, 19 and 20; in line 21, by striking all before the second “and” and inserting “21-3504, 21-3506, 21-3513, 21-3812 and 74-9101 and K.S.A. 2005 Supp. 21-3447, 21-3502, 21-3516, 21-4706, 22-3717, 22-4903, 74-9501 and 75-52,129”; and the bill be passed as amended.

HB 2748, as amended by House Committee, be amended on page 1, by striking all in lines 34 through 42;

On page 2, after line 27, by inserting the following:

“Sec. 3. K.S.A. 8-1703 is hereby amended to read as follows: 8-1703. (a) Every vehicle, except as provided in subsection (b), upon a highway within this state, at ~~any time~~ *all times shall display lighted head and other lamps and illuminating devices as required for different classes of vehicles, subject to exceptions with respect to parked vehicles:*

(1) From sunset to sunrise ~~and at any other time;~~;

(2) when due to insufficient light or unfavorable atmospheric conditions, *including smoke or fog*, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead, ~~shall display lighted head and other lamps and illuminating devices as required for different classes of vehicles, subject to exceptions with respect to parked vehicles; or~~

(3) *when windshield wipers are in continuous use as a result of rain, sleet or snow.*

Stop lights, turn signals and other signaling devices shall be lighted as prescribed for the use of such devices.

(b) Motorcycles, motor-driven cycles and motorized bicycles manufactured after January 1, 1978, shall display lighted head and tail lights at all times that such vehicles are operated on any highway.

(c) *Law enforcement officers shall not stop drivers for violations of subsection (a)(3) in the absence of another violation of law. A citation for a violation of subsection (a)(3) shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.*”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 28, after “8-1602” by inserting “and 8-1703”;

In the title, in line 10, by striking “violations”; in line 11, after the semicolon by inserting “use of head lamps”; also in line 11, after “8-1602” by inserting “and 8-1703”; and the bill be passed as amended.

HB 2761 be amended on page 2, in line 15, after the period, by inserting: “This subsection shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.”; and the bill be passed as amended.

HB 2916, as amended by House Committee, be amended on page 6, in line 4, after “device” by inserting “, for the full year of the restricted period.”;

On page 7, in line 34, after “device” by inserting “, for the full year of the restricted period.”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 526** be amended on page 2, in line 4, following the period, by inserting “Big game antlerless permits and game tags shall be issued, as necessary, without regard to antlered permits being first required.”;

On page 4, by striking all in lines 3 and 4; and the bill be passed as amended.

Also, **HB 2710**, as amended by House Committee of the Whole, be amended on page 1, in line 26, after the period by inserting “The state conservation commission and the participating groundwater management districts shall carry over unexpended funds from one fiscal year to the next.”; in line 29, by striking “retire permanently”; in line 30, by striking “part or” and inserting “enter into water right transition assistance pilot project program contracts with landowners that will result in the permanent retirement of”; also in line 30, by striking “of”; also in line 30, by striking all after “rights”; by striking all in lines 31 and 32; in line 33, by striking all before the period and inserting “by action of the chief engineer as provided for in subsection (f) of this section”; in line 38, by striking all after “(e)”; by striking all in lines 39 through 42, and inserting “When prioritizing among water right applications for acceptance under the water right transition assistance pilot project, where rights with similar hydrologic impacts are considered, priority should be given to the senior right as determined under the Kansas water appropriation act.”; in line 43, after “assistance” by inserting “pilot project”;

On page 2, in line 4, after “assistance” by inserting “pilot project”; in line 9, by striking “not more than two”; in line 14, before the period by inserting “or priority areas outside the groundwater management districts as designated by the chief engineer of the Kansas department of agriculture division of water resources”; in line 15, by striking all after “(2)”; in line 16, by striking “two” and inserting “Two”; in line 23, by striking “paragraphs (g) and (h)” and inserting “subsections (i) and (j)”; in line 24, after “assistance” by inserting “pilot project”; in line 27, after “assistance” by inserting “pilot project”;

On page 3, in line 1, after “assistance” by inserting “pilot project”; in line 9, after “assistance” by inserting “pilot project”; in line 10, after “assistance” by inserting “pilot project”; in line 27, by striking all after “(l)”; by striking all in lines 28 through 30; in line 31, by striking all before “The”; in line 34, by striking “results of”; also in line 34, after “studies” by inserting “being”; in line 39, after “assistance” by inserting “pilot project”;

On page 4, in line 3, after “assistance” by inserting “pilot project”; in line 6, after “assistance” by inserting “pilot project”; in line 12, after “assistance” by inserting “pilot project”; in line 20, after “assistance” by inserting “pilot project”; after line 20, by inserting the following:

“New Sec. 3. On and after the effective date of this act, notwithstanding the provisions of any other statute to the contrary, no moneys shall be expended by any state agency for the purpose of water rights purchase or leasing unless the acquisition or leasing is conducted in accordance with and subject to a program that is prescribed and specifically authorized by act of the legislature. The provisions of this section shall not apply to the environmental quality incentives program, any contract with the Almena irrigation district or any other program or agreement that purchases or leases water rights in existence prior to January 1, 2006.”;

And by renumbering the remaining section accordingly;

In the title, in line 12, after “assistance” by inserting “pilot project”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 546** be amended on page 1, in line 13, by striking “The” and inserting “Within the limits of appropriations therefor, the”; in line 34, after “specific”, by inserting “persons,”; also in line 34, after “operators”, by inserting “, as defined in K.S.A. 65-6112, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 2, by striking all in lines 4 through 13; in line 22, by striking “4” and inserting “3”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 570** be amended on page 2, in line 25, by striking "\$2,737,091" and inserting "\$2,771,049"; after line 25, by inserting the following:

"(b) On July 1, 2006, the position limitation established for the fiscal year ending June 30, 2007, by section 79 of chapter 174 of the 2005 Session Laws of Kansas for the state board of healing arts is hereby increased from 32.00 to 33.00.";

On page 4, in line 32, by striking "\$637,959" and inserting "\$660,459";

On page 8, by striking all in lines 1 through 15;

And by renumbering sections accordingly;

Also on page 8, in line 33, by striking "\$412,535" and inserting "\$162,535";

On page 9, after line 34, by inserting the following:

"Dillon house roof repairs \$52,000";

Also on page 9, by striking all in lines 36 through 38;

On page 10, in line 16, after the first comma, by inserting "of"; in line 19, after the comma, by inserting "the sum of \$499,827"; by striking all in lines 20 through 23;

On page 12, in line 27, by striking "\$90,000" and inserting "\$590,000";

On page 14, after line 9, by inserting the following:

"Cash assistance \$50,000

Mental health and retardation services aid and assistance \$500,000";

On page 15, after line 22, by inserting the following:

"(m) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2006, by section 111(b) of chapter 174 of the 2005 Session Laws of Kansas on the Title XIX fund is hereby increased from \$45,795,587 to \$45,878,587.";

Also on page 15, after line 26, by inserting the following:

"Operating expenditures (including official hospitality) \$364,746";

Also on page 15, in line 30, by striking "\$1,197,016" and inserting "\$1,293,919";

On page 17, after line 32, by inserting the following:

"(e) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2006, the following:

Kansas criminal justice recodification, rehabilitation and restoration project \$100,000

Provided, That any unencumbered balance in the Kansas criminal justice recodification, rehabilitation and restoration project account in excess of \$100 as of June 30, 2006, is hereby reappropriated for fiscal year 2007.

(f) On the effective date of this act, of the \$844,263 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 8(a) of chapter 206 of the 2005 Session Laws of Kansas from the state general fund in the day reporting centers and reentry programs account, the sum of \$100,000 is hereby lapsed.";

Also on page 17, after line 38, by inserting the following:

"Atchison juvenile correctional facility operations \$56,931";

On page 21, in line 2, by striking "\$1,671,113" and inserting "\$2,844,013"; after line 11, by inserting the following:

"(c) On the effective date of this act, of the \$1,550,044 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 140(b) of chapter 174 of the 2005 Session Laws of Kansas from the state general fund in the state fair debt service account, the sum of \$307 is hereby lapsed.";

Also on page 21, after line 19, by inserting the following:

"(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2006, the following:

State parks operating expenditures \$200,000

(b) On the effective date of this act, of the \$206,000 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 143(a) of chapter 174 of the 2005 Session Laws of Kansas from the state general fund in the reimbursement for annual park permits issued to national guard members account, the sum of \$175,000 is hereby lapsed.

(c) On the effective date of this act, of the \$60,000 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 143(a) of chapter 174 of the 2005 Session

Laws of Kansas from the state general fund in the reimbursement for annual licenses issued to national guard members account, the sum of \$25,000 is hereby lapsed.”;

Also on page 21, in line 20, by striking “(a)” and inserting “(d)”;

in line 26, by striking “(b)” and inserting “(e)”;

in line 30, by striking “(c)” and inserting “(f)”;

in line 34, by striking “(d)” and inserting “(g)”;

On page 22, after line 4, by inserting the following:

“Sec. 60.

KANSAS HUMAN RIGHTS COMMISSION

(a) On the effective date of this act, the position limitation established for the fiscal year ending June 30, 2006, by section 65(b) of chapter 206 of the 2005 Session Laws of Kansas for the Kansas human rights commission is hereby decreased from 40.00 to 39.00.”; and the bill be passed as amended.

SB 571 be amended on page 1, in line 16, after “ending” by inserting “June 30, 2006.”; also in line 16, by striking “and”;

in line 17, after “2008,” by inserting “and June 30, 2009.”;

On page 2, after line 33, by inserting the following:

“Underground drain installation..... \$57,150”;

Also on page 2, in line 40, by striking “\$185,000” and inserting “\$190,000”;

On page 4, by striking all in line 3; in line 7, before the period, by inserting “; Dillon house roof repairs”;

On page 6, after line 42, by inserting the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, for the capital improvement projects specified as follows:

Picken hall renovation planning \$120,000”;

On page 7, after line 7, by inserting the following:

“Memorial stadium renovation planning..... \$438,000”;

Also on page 7, after line 13, by inserting the following:

“Salina runway improvements fund..... No limit”;

On page 11, after line 29, by inserting the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, for the capital improvement projects specified as follows:

William Allen White library renovation planning \$238,000”;

On page 12, after line 28, by inserting the following:

“(c) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, for the capital improvement projects specified as follows:

McCray hall renovation planning \$350,000”;

On page 14, after line 24, by inserting the following:

“(c) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, for the capital improvement projects specified as follows:

Utility tunnel improvements planning \$450,000”;

On page 24, in line 4, by striking “ending June 30, 2007” and inserting “or years specified”;

in line 6, by striking all after “building”;

following line 6, by inserting the following:

“For the fiscal year ending June 30, 2007 \$307,220”;

Also on page 24, in line 7, by striking all after “projects”;

following line 7, by inserting the following:

“For the fiscal year ending June 30, 2007 \$100,000

Great Bend laboratory

For the fiscal year ending June 30, 2007..... \$949,000

IMA building

For the fiscal year ending June 30, 2007..... \$435,000

For the fiscal year ending June 30, 2008..... \$435,000

For the fiscal year ending June 30, 2009..... \$435,000

(b) (1) On the effective date of this act, the \$357,310 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 171(b) of chapter 174 of the 2005 Session Laws of Kansas for the forensic laboratory and materials fee fund in the KBI west laboratory at Great Bend — renovation account, is hereby lapsed.

(2) On July 1, 2006, the \$138,175 appropriated for the above agency for the fiscal year ending June 30, 2007, by section 171(b) of chapter 174 of the 2005 Session Laws of Kansas

from the forensic laboratory and materials fee fund in the KBI west laboratory at Great Bend — renovation account, is hereby lapsed.

(3) On July 1, 2007, the \$121,947 appropriated for the above agency for the fiscal year ending June 30, 2008, by section 171(b) of chapter 174 of the 2005 Session Laws of Kansas from the forensic laboratory and materials fee fund in the KBI west laboratory at Great Bend — renovation account, is hereby lapsed.

(4) On July 1, 2008, the \$145,679 appropriated for the above agency for the fiscal year ending June 30, 2009, by section 171(b) of chapter 174 of the 2005 Session Laws of Kansas from the forensic laboratory and materials fee fund in the KBI west laboratory at Great Bend — renovation account, is hereby lapsed.”;

On page 25, after line 28, by inserting the following:
“State parks repair and maintenance projects \$305,000”;

On page 26, in line 6, by striking “\$2,500,000” and inserting “\$1,500,000”;

On page 31, in line 42, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 10, after “ing” by inserting “June 30, 2006,”; also in line 10, by striking “and”; also in line 10, after “2008,” by inserting “and June 30, 2009,”; and the bill be passed as amended.

SB 573 be amended on page 1, in line 18, by striking “year” and inserting “years”; also in line 18, following “ending” by inserting “June 30, 2006, and”; in line 39, by striking “\$2,961,143” and inserting “\$3,018,768”; in line 43, by striking “\$2,561,106” and inserting “\$2,618,731”;

On page 7, in line 35, by striking “\$4,437,603” and inserting “\$4,742,552”; in line 41, before the period, by inserting “: *And provided further*, That if the attorney general receives a Byrne grant in the fiscal year ending June 30, 2007, funding from the state general fund appropriated to the attorney general for the fiscal year ending June 30, 2007, shall be lapsed on June 30, 2007, in an amount equal to the amount of such grant”;

On page 8, by striking all in lines 3 through 8; in line 13, before the period, by inserting “; additional operating expenditures for investigation and litigation regarding interstate water rights”;

On page 10, after line 7, by inserting the following:
“(d) On July 1, 2006, the director of accounts and reports shall transfer \$560,000 from the interstate water litigation reserve account of the state general fund to the interstate water litigation fund of the attorney general.

(e) During the fiscal year ending June 30, 2006, and June 30, 2007, notwithstanding the provisions of K.S.A. 82a-1801, and amendments thereto, or any other statute, the director of accounts and reports shall maintain the interstate water litigation reserve account of the state general fund into which \$20,173,363, which was part of the amount recovered by the state of Kansas from a settlement, judgment or decree in the litigation commenced in 1985 by the state of Kansas against the state of Colorado, was transferred and credited pursuant to section 79(f) of chapter 206 of the 2005 Session Laws of Kansas: *Provided further*, That the interstate water litigation reserve account of the state general fund is hereby specifically continued as a separate reserve account within the state general fund: *And provided further*, That the amount transferred to the interstate water litigation reserve account of the state general fund pursuant to section 79(f) of chapter 206 of the 2005 Session Laws of Kansas shall be reserved for purposes to be prescribed by law: *And provided further*, That the state finance council shall have no authority to approve any transfer of moneys from the interstate water litigation reserve account of the state general fund, to authorize or approve any expenditure of moneys from the interstate water litigation reserve account of the state general fund or to increase any expenditure limitation on the interstate water litigation reserve account of the state general fund: *And provided further*, That no expenditures shall be authorized or made from the interstate water litigation reserve account of the state general fund by any state agency, except upon specific authorization therefor by appropriation act of the legislature.”;

On page 12, after line 1, by inserting the following:
“Services reimbursement fund No limit
Provided, That the state treasurer is hereby authorized to charge cash management fees, banking services fees and fees for processing warrants, vouchers and direct deposits for the

services that the state treasurer's office provides to other state agencies: *Provided, however*, That payroll warrants shall not be subject to any such fee, except for the charges to the state's operating account for processing such warrants: *Provided further*, That such fees shall be based upon the number and type of transactions processed for each agency: *And provided further*, That such fees shall be based upon a combination of the banking fees incurred by the state treasurer and the operating costs for providing each service: *And provided further*, That the state treasurer shall revise the schedule of fees annually after consulting with various state agencies: *And provided further*, That all such fees collected shall be deposited in the state treasury to the credit of the services reimbursement fund of the state treasurer: *And provided further*, That moneys in the services reimbursement fund may be expended for the general operating expenditures of the state treasurer's office in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or by a person designated by the state treasurer.";

On page 16, by striking all in lines 25 through 38;

On page 18, in line 5, by striking "\$9,645,721" and inserting "\$9,967, 442"; in line 20, by striking "\$6,600,000" and inserting "\$9,800,000";

On page 19, in line 26, by striking "\$100,940,343" and inserting "\$97,016, 818";

On page 28, in line 19, by striking "\$1,974,447" and inserting "\$1,999,447"; after line 33, by inserting the following:

"Radio Kansas — Hutchinson tower project	\$325,000
KPTS TV — Wichita equipment acquisition	\$192,170";

On page 29, by striking all in lines 5 through 43;

On page 33, by striking all in line 35;

On page 34, by striking all in line 2; by striking all in lines 5 through 7; by striking all in lines 37 through 43;

On page 35, by striking all in lines 1 through 8;

On page 45, by striking all in lines 18 through 43;

On page 46, by striking all in lines 1 through 43;

On page 47, by striking all in lines 1 through 14; in line 15, by striking "(u)" and inserting "(r)"; in line 22, by striking "(v)" and inserting "(s)";

On page 53, by striking all in lines 34 through 37; in line 38, by striking "(d)" and inserting "(c)";

On page 54, in line 10, by striking "(e)" and inserting "(d)"; in line 21, by striking "(f)" and inserting "(e)";

On page 55, in line 9, by striking "\$230,481" and inserting "\$330,481";

On page 60, after line 7, by inserting the following:

"(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, the following:

Operating expenditures	\$150,000";
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Also on page 60, in line 8, by striking "(a)" and inserting "(b)"; in line 12, by striking "(b)" and inserting "(c)"; in line 19, by striking "(c)" and inserting "(d)"; after line 23, by inserting the following:

"(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, the following:

Operating expenditures	\$550,000";
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Also on page 60, in line 24, by striking "(a)" and inserting "(b)"; in line 31, by striking "(b)" and inserting "(c)"; in line 38, by striking "(c)" and inserting "(d)";

On page 61, in line 22, by striking "\$12,168,768" and inserting "\$12,240,389";

On page 62, in line 43, by striking "\$1,462,232" and inserting "\$1,510,710";

On page 64, in line 13, by striking "\$3,334,376" and inserting "\$3,548,376";

On page 66, after line 18, by inserting the following:

"Advanced education general dentistry residency program	\$415,000";
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On page 83, after line 32, by inserting the following:

“Sec. 32.

KANSAS HEALTH POLICY AUTHORITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2007, the following:

Operating expenditures \$16,744,518

Provided, That any unencumbered balance in the operating expenditures account in excess of \$100 as of June 30, 2006, is hereby reappropriated for fiscal year 2007: Provided, however, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council.

Business health partnership \$2,000,000

Provided, That any unencumbered balance in the business health partnership account in excess of \$100 as of June 30, 2006, is hereby reappropriated to the business health partnership account for fiscal year 2007: Provided, however, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council.

Generic drug program \$400,000

Other medical assistance \$379,994,886

Provided, That any unencumbered balance in the health policy and finance — other medical assistance account of the department of administration in excess of \$100 as of June 30, 2006, is hereby reappropriated to the other medical assistance account of the Kansas health policy authority for fiscal year 2007: Provided, however, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council.

Children’s health insurance program \$18,476,279

Provided, That any unencumbered balance in the health policy and finance — children’s health insurance program account of the department of administration in excess of \$100 as of June 30, 2006, is hereby reappropriated to the children’s health insurance program account of the Kansas health policy authority for fiscal year 2007: Provided, however, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the ending June 30, 2007, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

State workers compensation self-insurance fund No limit

Preventive health care program fund No limit

Cafeteria benefits fund No limit

Provided, That expenditures from the cafeteria benefits fund for the fiscal year ending June 30, 2007, for salaries and wages and other operating expenditures shall not exceed \$2,375,716.

Kansas health policy authority special revenue fund No limit

Provided, That expenditures from the Kansas health policy authority special revenue fund for the fiscal year ending June 30, 2007, for official hospitality shall not exceed \$1,000.

Health committee insurance fund No limit

Health care database fee fund No limit

Medical programs fee fund \$67,789,636

Other state fees fund No limit

Health care access improvement fund No limit

Other federal grants and assistance fund No limit

Medical assistance federal fund No limit

Children’s health insurance federal fund No limit

Ticket to work infrastructure grant federal fund No limit

Health policy and finance — PERM grant federal fund No limit

Ryan White title II federal fund No limit

(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2007, the following:

Medical assistance \$3,000,000

Healthwave \$2,000,000

Immunization outreach \$500,000

(d) (1) During the fiscal year ending June 30, 2007, upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the secretary of social and rehabilitation services may transfer moneys appropriated for fiscal year 2007 from any account of the state general fund or any special revenue fund of the department of social and rehabilitation services to the appropriate account of the state general fund or special revenue fund of the Kansas health policy authority for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of social and rehabilitation services and department of social and rehabilitation services to the Kansas health policy authority on July 1, 2006, pursuant to chapter 187 of the 2005 Session Laws of Kansas.

(2) During the fiscal year ending June 30, 2007, upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the Kansas health policy authority may transfer moneys appropriated for fiscal year 2007 from any account of the state general fund or any special revenue fund of the Kansas health policy authority to the appropriate account of the state general fund or the appropriate special revenue fund of the department of social and rehabilitation services for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of social and rehabilitation services and department of social and rehabilitation services to the Kansas health policy authority on July 1, 2006, pursuant to chapter 187 of the 2005 Session Laws of Kansas.

(e) (1) During the fiscal year ending June 30, 2007, upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the secretary of administration may transfer moneys appropriated for fiscal year 2007 from any account of the state general fund or any special revenue fund of the department of administration to the appropriate account of the state general fund or special revenue fund of the Kansas health policy authority for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of administration and department of administration to the Kansas health policy authority on July 1, 2006, pursuant to chapter 187 of the 2005 Session Laws of Kansas.

(2) During the fiscal year ending June 30, 2007, upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the Kansas health policy authority may transfer moneys appropriated for fiscal year 2007 from any account of the state general fund or any special revenue fund of the Kansas health policy authority to the appropriate account of the state general fund or the appropriate special revenue fund of the department of administration for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of administration and the department of administration to the Kansas health policy authority on July 1, 2006, pursuant to chapter 187 of the 2005 Session Laws of Kansas.

(f) On July 1, 2006, the director of accounts and reports shall transfer all moneys in the office of health planning and finance fund of the department of administration to the Kansas health policy authority special revenue fund of the Kansas health policy authority, which is hereby established in the state treasury. On July 1, 2006, all liabilities of the office of health planning and finance fund of the department of administration are hereby transferred to and imposed on the Kansas health policy authority special revenue fund of the Kansas health policy authority and the office of health planning and finance fund of the department of administration is hereby abolished.

(g) During the fiscal year ending June 30, 2007, the executive director of the Kansas health policy authority, with the approval of the director of the budget, may transfer any part of any item of appropriation for the fiscal year ending June 30, 2007, from the state

general fund for the Kansas health policy authority to another item of appropriation for fiscal year 2007 from the state general fund for the Kansas health policy authority. The executive director of the Kansas health policy authority shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to the director of the legislative research department.”;

And by renumbering sections accordingly;

Also on page 83, in line 37, by striking “\$84,556,356” and inserting “\$85,351,780”;

On page 84, in line 7, by striking “\$159,904,856” and inserting “\$162,154,856”; in line 11, by striking “\$11,670,591” and inserting “\$12,270,036”; in line 29, by striking “\$27,436,223” and inserting “\$29,573,761”;

On page 85, in line 3, by striking “\$8,823,246” and inserting “\$9,245,873”; in line 16, by striking “\$8,629,055” and inserting “\$8,665,055”; in line 35, by striking “\$3,792,488” and inserting “\$3,803,792”;

On page 86, in line 27, by striking “\$56,665,135” and inserting “\$56,915,135”; in line 31, by striking “\$45,551,028” and inserting “\$47,051,028”;

On page 94, in line 34, by striking “\$9,860,385” and inserting “\$10,235,552”;

On page 96, in line 6, by striking “\$3,000,000” and inserting “\$2,000,000”; after line 6, by inserting the following:

“*Provided*, That expenditures from the professional development aid account may be made in an amount not to exceed \$300,000 for the Kansas academy for leadership in technology.”;

On page 101, in line 6, by striking “\$328,420” and inserting “\$374,949”; in line 15, by striking “\$1,169,196” and inserting “\$1,284,510”; in line 43, by striking “\$4,915,031” and inserting “\$5,065,102”;

On page 102, in line 36, by striking “\$8,215,731” and inserting “\$8,447,828”;

On page 127, in line 11, by striking “\$21,673,603” and inserting “\$24,873,603”;

On page 128, in line 5, by striking “\$3,200,000” and inserting “\$6,400,000”; after line 15, by inserting the following:

“Technical college hold harmless funding \$735,000

Provided, That the state board of regents is hereby authorized to make expenditures from the technical college hold harmless funding account for grants to the technical colleges: *Provided further*, That such grants shall be distributed so that no technical college shall receive less state aid in the fiscal year ending June 30, 2007, than it received in the previous fiscal year.

Biosciences academy \$165,000”;

On page 133, in line 5, by striking “\$15,548,912” and inserting “\$15,651,912”;

On page 138, in line 20, by striking “\$5,789,060” and inserting “\$5,873,959”; in line 30, by striking “\$4,353,606” and inserting “\$4,432,407”;

On page 150, in line 2, by striking “\$15,496,534” and inserting “\$15,759,746”;

On page 152, in line 40, by striking “\$1,507,139” and inserting “\$1,307,139”;

On page 154, in line 12, by striking “\$602,189” and inserting “\$613,589”; in line 31, by striking “\$11,047,255” and inserting “\$11,114,955”;

On page 162, in line 39, by striking “\$400,000” and inserting “\$335,000”; by striking all in lines 40 and 41; after line 42, by inserting the following:

“Salt cedar demonstration projects \$65,000”;

On page 165, in line 8, by striking “\$3,500,000” and inserting “\$0”;

On page 168, in line 14, by striking “\$3,282,506” and inserting “\$3,337,045”; in line 17, by striking all after the second comma; by striking all in line 18; in line 19, by striking all before “That”; after line 20, by inserting the following:

“State parks operating expenditures \$897,000

Provided, That any unencumbered balance in the state parks operating expenditures account in excess of \$100 as of June 30, 2006, is hereby reappropriated for fiscal year 2007.”;

On page 174, after line 27, by inserting the following:

“Buildings — purchase various lands \$75,000”;

On page 177, in line 25, by striking “929.73” and inserting “759.53”; in line 36, by striking “3,670.61” and inserting “3,682.61”; in line 37, by striking “575.20” and inserting “588.20”;

On page 191, after line 16, by inserting the following:

“(1) The governor is hereby authorized and directed to modify the pay plan for fiscal year 2006 in accordance with this subsection (p)(1) and to adopt such pay plan as so modified: *Provided*, That the existing pay plan for fiscal year 2006 shall be modified to provide for (A) step movement of a single pay step increase on the pay plan for each person in the classified service under the Kansas civil service act who is on pay step 15 or lower and whose latest performance review rating during the twelve-month period preceding June 18, 2006, is at least satisfactory, to the next pay step effective on the first day of the first biweekly payroll period which is chargeable to the fiscal year ending June 30, 2007, in accordance with the applicable provisions of the Kansas civil service act and rules and regulations adopted thereunder, and (B) a base pay rate increase equal to a single step pay increase for each person in the classified service under the Kansas civil service act who is at a pay rate above the pay grade for such person’s job class: *Provided further*, That the pay plan adopted by the governor under this subsection (p)(1) shall be the pay plan for the classified service under the Kansas civil service act and shall be effective on the first day of the first biweekly payroll period which is chargeable to the fiscal year ending June 30, 2007: *And provided further*, That the pay plan adopted by the governor under this subsection (p)(1) for fiscal year 2007 shall be subject to modification and approval as provided under K.S.A. 75-2938 and amendments thereto and to any enactment of the legislature applicable thereto;”;

Also on page 191, in line 17, by striking “(1)” and inserting “(2)”; in line 25, by striking “(p)(1)” and inserting “(p)(2)”; in line 30, by striking “(2)” and inserting “(3)”; in line 43, by striking “(p)(2)” and inserting “(p)(3)”;

On page 192, in line 5, by striking “. The” and inserting “. *Provided further*, That the”; in line 6, by striking “(p)(2)” and inserting “(p)(3)”;

On page 1, in the title, in line 9, by striking “year” and inserting “years”; also in line 9, following “ending” by inserting “June 30, 2006, and”; and the bill be passed as amended.

SB 583 be amended on page 1, in line 26, after the period by inserting “(a)”; after line 37, by inserting the following:

“(b) In each fiscal year commencing the fiscal year ending June 30, 2007, the director of accounts and reports shall make transfers in equal amounts on October 15, December 15, March 15 and June 15 of each fiscal year which in the aggregate equal \$4,000,000 from the state gaming revenues fund to the parks fee fund, created by K.S.A. 32-991, and amendments thereto. If sufficient moneys from the state gaming revenues fund are not available, the director of accounts and reports on such date or as soon thereafter as moneys become available in the state general fund, shall transfer an amount equal to such insufficiency from the state general fund to the parks fee fund.

(c) In each fiscal year commencing the fiscal year ending June 30, 2007, the director of accounts and reports shall make a transfer on August 15 of each fiscal year in the amount of \$1,000,000 from the state gaming revenues fund to the local government outdoor recreation grant program fund, created by section 1, and amendments thereto. If sufficient moneys from the state gaming revenues fund are not available, the director of accounts and reports on such date or as soon thereafter as moneys become available in the state general fund, shall transfer an amount equal to such insufficiency from the state general fund to the local government outdoor recreation grant program fund.”;

Also on page 1, by striking all in lines 38 through 43;

By striking all on page 2;

On page 3, by striking all in lines 1 through 27;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 28, by striking “and K.S.A. 2005 Supp. 79-4804 are” and inserting “is”;

In the title, in line 10, by striking “economic development initiatives” and inserting “state gaming revenues”; also in line 10, after the semicolon by inserting “creating the local government outdoor recreation grant program fund.”; in line 11, by striking “and K.S.A. 2005 Supp. 79-4804”; in line 12, by striking “sections” and inserting “section”; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Wysong the following report was adopted:

Recommended **SB 398** be passed.

SB 319 be amended by adoption of the committee amendments, and the bill be passed as amended.

Sub SB 323 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Apple, on page 1, in line 31, by striking "sections 2 through 5" and inserting "section 2"; in line 35, by striking all after "authorized"; by striking all in line 36; in line 37, by striking "ments thereto";

On page 2, by striking all in lines 15 through 43;

By striking all on pages 3 and 4;

On page 5, by striking all in lines 1 through 4 and inserting the following:

"New Sec. 3. For the purposes of this act, unless the context clearly indicates a different meaning, the following terms shall have the following respective meanings:";

And by relettering the subsections accordingly;

Also on page 5, by striking all in lines 11 through 17;

And by renumbering the remaining sections accordingly;

Also on page 5, in line 23, before the period by inserting "; however, eminent domain may be used only as authorized by section 2, and amendments thereto";

On page 6, in line 13, before "provisions" by adding "compensation";

On page 8, in line 43, by striking "14" and inserting "7";

On page 9, in line 17, by striking "7" and inserting "3"; by striking all in lines 24 through 43;

By striking all on pages 10 and 11;

On page 12, by striking all in lines 1 through 14;

And by renumbering the remaining sections accordingly;

Also on page 12, in line 15, by striking "7" and inserting "3"; in line 17, by striking "and 26-513"; also in line 17, by striking the comma and inserting "and"; in line 18, by striking "and 26-504";

In the title, in line 10, by striking "and 26-513"; in line 11, by striking the comma and inserting "and"; also in line 11, by striking "26-504 and"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 24, Nays 14, Present and Passing 1, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Donovan, Haley, Hensley, Huelskamp, Journey, Lee, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Taddiken, Teichman, Umbarger, Wagle.

Nays: Allen, Emler, Gilstrap, Goodwin, Jordan, Kelly, Morris, Reitz, Schmidt V, Schodorf, Steineger, Vratil, Wilson, Wysong.

Present and Passing: Francisco.

Absent or Not Voting: Brungardt.

The motion carried and the amendment was adopted, and **Sub SB 323** be passed as amended.

The following amendments offered to **Sub SB 323** were rejected:

Senator Huelskamp moved to amend **Sub SB 323**, on page 1, by striking all in lines 14 through 23; by striking all in lines 26 through 43;

By striking all on pages 2 through 11;

On page 12, by striking all in lines 1 through 18; after line 18, by inserting the following:

"Section 1. No condemning authority may use eminent domain to acquire private property:

(a) For the purpose of transferring the property to any private person, nongovernmental entity or public-private business entity; or

(b) for the primary purpose of enhancing tax revenue.

Sec. 2. No condemning authority may transfer any fee interest in property acquired by the use or threat of eminent domain, within seven years of acquisition, to any private person, nongovernmental entity or public-private business entity, without first offering to sell such fee interest back to the person who originally owned the property, or such person's heirs or assigns, at current fair market value, regardless of whether the property has been improved or has remained unimproved during the interval or at the compensation determined at the original transfer, whichever is less.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “property”; by striking all in line 11; in line 12, by striking all before the period

Senator Huelskamp further moved to amend **Sub SB 323**, on page 1, by striking all in lines 14 through 23; by striking all in lines 26 through 43;

By striking all on pages 2 through 11;

On page 12, by striking all in lines 1 through 18 and inserting the following:

“Section 1. (a) Private property shall not be taken except for public use and private property shall not be taken without just compensation.

(b) The taking of private property with the intent to or in anticipation of selling, leasing or otherwise transferring such property to any other private entity is not a valid public use and is prohibited except as provided in subsection (c).

(c) The provisions of subsection (b) shall not apply to a taking of private property:

(1) By any governmental entity which demonstrates by clear and convincing evidence that no reasonable alternative to such taking is available to satisfy the public purpose that the taking and transfer is intended to advance; and

(A) such property has been unoccupied for more than five years;

(B) such property is unsafe for occupation by humans under the building codes of the jurisdiction where the structure is situated; or

(C) such property is in a state of disuse sufficient to constitute waste;

(2) by a hospital corporation or hospital association but only to the extent such property is used for operation of facilities necessary to a hospital; or

(3) by a utility corporation or utility cooperative but only to the extent such property is used for the operation of facilities necessary for the provision of utility services.

(d) The provisions of this section shall be part of and supplemental to the Kansas eminent domain procedure act.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “property”; by striking all in line 11; in line 12, by striking all before the period

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 16, Nays 22, Present and Passing 1, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Bruce, Huelskamp, Journey, Lee, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Schmidt D, Taddiken, Wagle, Wilson.

Nays: Allen, Barone, Betts, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Jordan, Kelly, McGinn, Morris, Pine, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Haley.

Absent or Not Voting: Brungardt.

The motion failed and the amendment was rejected.

Senator Pyle moved to amend **Sub SB 323**, on page 12, after line 14, by inserting the following:

“(f) In the event that litigation takes place, just compensation shall include all necessary expenses of the litigation. Such expenses shall be awarded by the court to a prevailing private property owner.”

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 16, Nays 22, Present and Passing 0, Absent or Not Voting 2.

Yeas: Barnett, Barone, Betts, Brownlee, Donovan, Haley, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Wagle, Wilson.

Nays: Allen, Apple, Bruce, Emler, Francisco, Gilstrap, Goodwin, Hensley, Kelly, Lee, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Brungardt, McGinn.

The motion failed and the amendment was rejected.

Senator Pyle further moved to amend **Sub SB 323**, on page 2, in line 13, by striking "legislature" and inserting "a $\frac{2}{3}$ majority vote of the members-elect of the Kansas house of representatives and a $\frac{2}{3}$ majority vote of the members-elect of the Kansas senate"

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 21, 2006.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

