

(Corrected)

Journal of the Senate

FIFTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS

Friday, April 3, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Wysong was excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Each session is planned for ninety days;
Sometimes we don't make it, sometimes we do.
If there's a lot of pressure involved,
We strive to get it through.

But often it takes more time
To produce bills fit to present.
Then the public is quickly informed
How much more money we spent.

Whether we hurry or whether we don't,
The result is always the same
Some people think we did well,
Most people think it's a shame.

So I ask You, Lord, to help us
To try hard to get some rest,
To remember we can't please everyone,
And just continue to do our best.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee Report to agree to disagree on **HB 2214** and has appointed Representatives Shultz, Peck and Swenson as second conferees on part of the House.

The House not adopts the Conference Committee Report to agree to disagree on **HB 2052**.

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 Apple in the chair.

On motion of Senator Apple the following report was adopted:

Recommended: **HB 2331** be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **HB 2331** was advanced to Final Action and roll call.

HB 2331, An act concerning investment of state moneys; relating to the state treasurer; amending K.S.A. 2-3705 and K.S.A. 2008 Supp. 75-4272 and 75-4280 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.

The bill passed.

REPORT ON ENGROSSED BILLS

SB 35, SB 44, SB 154 reported correctly engrossed April 3, 2009.

Also, **SB 11, SB 19, SB 87, SB 225** correctly re-engrossed April 3, 2009.

REPORT ON ENROLLED BILLS

SB 9, SB 39, SB 60, SB 253 reported correctly enrolled, properly signed and presented to the Governor on April 3, 2009.

Also, **SR 1869, SR 1870, SR 1871, SR 1872, SR 1873** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 3, 2009.

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of **SCR 1610**.

The House concurs in Senate amendments to **HB 2085**, and requests return of the bill.

The House adopts the conference committee report on **Senate Substitute for HB 2260**.

The House adopts the conference committee report on **HB 2172**.

The House accedes to the request of the Senate for a conference on **SB 257** and has appointed Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2130**, requests a conference and appoints Hayzlett, Vickrey and Long as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Reitz moved the Senate concur in house amendments to **H Sub for SB 257**.

H Sub for SB 257, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Huelskamp, Owens.

Absent or Not Voting: Wysong.

The Senate concurred.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2130**.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2097**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2097, as follows:

On page 1, by striking all in lines 15 through 43;

By striking all on pages 2 through 5 and inserting the following:

“Section 1. K.S.A. 2008 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; K.S.A. 21-4642, 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 K.S.A. 21-4643, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, 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 and program credit 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 and program credit 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 and program credit 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 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 post-release 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 offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this 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) 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.

"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 post-release 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, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the 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. 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 K.S.A. 21-4643, 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.

(w) *Documents, records and reports from the parole board, reviewed and produced on and after July 1, 2008 through June 30, 2009, concerning factors and rationale used to determine the granting or denial of parole, shall be available to members of the standing senate committee on judiciary, house committee on judiciary, house committee on corrections and juvenile justice and the joint committee on corrections and juvenile justice, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. The parole board shall provide to such legislative members a summary statement of the factors and rationale used to determine such grant or denial. Such information shall include such summary statement and any corre-*

spondence received by the parole board relating to such grant or denial. Documents, records and reports received by the committee are confidential and shall not be further disclosed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

Sec. 2. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;
- (8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;
- (9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
- (10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;
- (11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;
- (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;
- (13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;
- (14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; ~~and~~

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto; and

(16) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (w) of K.S.A. 22-3717, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) Any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 3. K.S.A. 2008 Supp. 22-3717 and 75-4319 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all in lines 9 through 12, and inserting the following: “AN ACT concerning the parole board; relating to factors and rationale used to determine parole; amending K.S.A. 2008 Supp. 22-3717 and 75-4319 and repealing the existing sections.”;

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

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

Conferees on part of Senate

PAT COLLOTON

JOE PATTON

MELODY MCCRAY-MILLER

Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **S Sub for HB 2097**.

On roll call, the vote was: Yeas 4, Nays 32, Present and Passing 3, Absent or Not Voting 1.

Yeas: Barnett, Brownlee, Masterson, Petersen.

Nays: Abrams, Apple, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Pilcher-Cook, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: Pyle, Schmidt D, Wagle.

Absent or Not Voting: Wysong.

The Conference Committee report was not adopted.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the President of the Senate and the Speaker of the House to the senate for confirmation, were considered.

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

Kansas Health Policy Authority, Member:

Joe Lee Tilghman, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-

Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.
The appointment was confirmed.

On the appointment to the:

Kansas Health Policy Authority, Member:

Garen Lorimer Cox, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.
The appointment was confirmed.

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 Apple in the chair.

On motion of Senator Apple the following report was adopted:

The committee report on **HB 2032** recommending a **S Sub for HB 2032** be adopted, and the substitute bill be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **S Sub for HB 2032** was advanced to Final Action and roll call.

S Sub for HB 2032, An act enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission; amending K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Wysong.
The substitute bill passed.

REPORT ON ENGROSSED BILLS

Sub SB 28; H Sub for SB 98; H Sub for SB 145; SB 161, SB 257 reported correctly engrossed April 3, 2009.

Also, **SB 68, SB 97, SB 134, SB 158, SB 212** correctly re-engrossed April 3, 2009.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **HB 2121**.

The House adopts the conference committee report on **HB 2152**.

The House adopts the conference committee report on **SB 66**.

The House announces the appointment of Representatives Colloton, Patton and McCray-Miller to replace Representatives Landwehr, Crum and Flaharty as conferrees on **SB 33**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Barnett moved the Senate concur in house amendments to **SB 102**.

SB 102, An act concerning emergency medical services; relating to use of automated external defibrillator; amending K.S.A. 2008 Supp. 65-6149a and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 66**, submits the following report:

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

On page 1, following line 16, by inserting the following:

“New Section 1. (a) In addition to any other fees specifically prescribed by law, on and after July 1, 2009, through June 30, 2010, the supreme court may impose a charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel, on the following:

(1) A person who requests an order or writ of execution, pursuant to K.S.A. 60-2401, and amendments thereto.

(2) Persons who request a hearing in aid of execution or an alias order for hearing pursuant to K.S.A. 60-2419, and amendments thereto.

(3) A person requesting an order for garnishment pursuant to article 7 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, or article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto.

(4) Persons who request a writ or order of sale pursuant to K.S.A. 61-3602, and amendments thereto.

(5) A person who requests a hearing in aid of execution, pursuant to K.S.A. 61-3604, and amendments thereto.

(b) The clerk of the district court shall remit all revenues received from the fees imposed pursuant to subsection (a) 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 judicial branch surcharge fund.

(c) The fees established in this section shall be the only fee collected or moneys in the nature of a fee collected for such court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 2008 Supp. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no

event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Reckless driving	\$82
Driving when privilege is canceled, suspended or revoked	82
Failure to comply with lawful order of officer	57
Registration violation (registered for 12,000 pounds or less)	52
Registration violation (registered for more than 12,000 pounds)	92
No driver's license for the class of vehicle operated or violation of restrictions	52
Spilling load on highway	52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion	223

(e) In the event of forfeiture of any bond under this section, \$75 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in subsection (c) of K.S.A. 8-2118, and amendments thereto, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$75, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

~~(i) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.~~

Sec. 3. K.S.A. 2008 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically

notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall remit all reinstatement fees 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 and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2008 Supp. 20-1a15, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

~~(e) The reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per reinstatement fee, to fund the costs of non-judicial personnel.~~

Sec. 4. K.S.A. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$46 or \$76 docket fee paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each \$26 docket fee paid pursuant to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to ~~4~~ \$2 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month

for cases filed in the county and *a sum equal to \$1* for each fee paid pursuant to subsection (c) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.

(e) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the law enforcement training center fund a sum equal to \$15 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.

(f) *To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the judicial branch surcharge fund a sum equal to the amount collected for credit to that fund, as provided by supreme court rule.*

~~(g)~~ (g) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and distribution according to K.S.A. 20-367, and amendments thereto, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c), (d) ~~and (e)~~, (e) and (f).

Sec. 5. K.S.A. 20-2207 is hereby amended to read as follows: 20-2207. (a) The judicial council may fix, charge and collect fees for sale and distribution of legal publications in order to recover direct and indirect costs incurred for preparation, publication and distribution of legal publications. The judicial council may request and accept gifts, grants and donations from any person, firm, association or corporation or from the federal government or any agency thereof for preparation, publication or distribution of legal publications.

(b) The publications fee fund of the judicial council which was established in the state treasury pursuant to appropriation acts is hereby continued in existence and shall be administered by the judicial council. Revenue from the following sources shall be deposited in the state treasury and credited to such fund:

(1) All moneys received by or for the judicial council from fees collected under this section; and

(2) all moneys received as gifts, grants or donations for preparation, publication or distribution of legal publications.

(c) Moneys deposited in the publications fee fund of the judicial council may be expended for operating expenditures related to preparation, publication and distribution of legal publications of the judicial council and for operating expenses that are not related to publication activities, *including expenditures to fund the Kansas criminal code recodification commission on July 1, 2009, through June 30, 2010.*

(d) All expenditures from the publications fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the judicial council or the chairperson's designee.

Sec. 6. K.S.A. 20-2208 is hereby amended to read as follows: 20-2208. There is hereby established in the state treasury the judicial council fund. All expenditures from the judicial council fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by a person or persons designated by the chairperson of the Kansas judicial council. *Expenditures from the judicial council fund may be made to fund the Kansas criminal code recodification commission on July 1, 2009, through June 30, 2010.*

Sec. 7. K.S.A. 2008 Supp. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after January 1, 2008, through December 31, ~~2009~~ 2010, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, ~~2010~~ 2011, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.

Sec. 8. K.S.A. 2008 Supp. 20-3202 is hereby amended to read as follows: 20-3202. (a) The commission shall consist of thirteen members appointed by the judicial council. The council shall appoint commission members of outstanding competence and reputation. Six members of the commission shall be non-lawyers and six members of the commission shall be lawyers, justices or judges. The judicial council shall appoint the chair of the commission, who shall be a lawyer, justice or judge. At least one non-lawyer commission member and at least one lawyer, justice or judge commission member shall reside in each congressional district. The rules of the commission shall provide that the terms of the commission members are staggered.

(b) For the purposes of K.S.A. 20-3201 through 20-3207, and amendments thereto, the commission shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto.

(c) As used in K.S.A. 20-3201 through 20-3207, and amendments thereto:

(1) "Lawyer" means an attorney registered as active pursuant to supreme court rule.

(2) "Judge" means: a current or retired Kansas judge of the district court; *and* a current or retired judge of the Kansas court of appeals, ~~and a retirant serving as a judge under written agreement with the Kansas supreme court pursuant to K.S.A. 20-2622, and amendments thereto.~~

(3) "Justice" means a current or retired justice of the Kansas supreme court.

Sec. 9. K.S.A. 2008 Supp. 20-3205 is hereby amended to read as follows: 20-3205. (a) The surveys of court users, survey results and judicial performance evaluation results are confidential and shall not be disclosed except as provided in subsection (d) or in accordance with the rules of the commission or the Kansas supreme court.

(b) Any statute or rule that restricts public access to certain types of court records or certain types of information contained in court records shall not prohibit the commission or agents of the commission from having access to the names and addresses of appropriate persons named in such records and other information necessary for the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto. No confidential information found in such court records shall be revealed to any other person by the commission or agents of the commission.

(c) The evaluation of judges subject to political elections shall be used solely for self-improvement. A judge subject to political elections shall not reveal data from any portion of the survey or the results of the survey.

~~(d) Judicial performance evaluation results of a retirant serving as a judge under written agreement with the Kansas supreme court pursuant to K.S.A. 20-2622, and amendments thereto, shall be public and shall be used by the Kansas supreme court for the determination of a continuing agreement pursuant to K.S.A. 20-2622, and amendments thereto.~~

Sec. 10. K.S.A. 20-3207 is hereby amended to read as follows: 20-3207. On and after July 1, 2006, there is hereby established in the state treasury the judicial performance fund. All moneys credited to the fund shall be used for the judicial performance evaluation process, *except on July 1, 2009, through June 30, 2010, moneys credited to the fund may be used to fund the Kansas criminal code recodification commission.* All expenditures from the judicial performance fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved

by the chairperson of the Kansas judicial council or by the person or persons designated by the chairperson of the Kansas judicial council.

Sec. 11. K.S.A. 2008 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

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

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

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

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) *aggravated endangering a child as defined in K.S.A. 21-3608a, and amendments thereto*; (12) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; ~~(12)~~ (13) capital murder as defined in K.S.A. 21-3439, and amendments thereto; ~~(13)~~ (14) murder in the first degree as defined in K.S.A. 21-3401, and

amendments thereto; ~~(14)~~ (15) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; ~~(15)~~ (16) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; ~~(16)~~ (17) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; ~~(17)~~ (18) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 21-3442, and amendments thereto; ~~(18)~~ (19) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; ~~(19)~~ (20) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; ~~(20)~~ (21) a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation; ~~(21)~~ (22) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or ~~(22)~~ (23) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

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

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

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

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

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. *Except as provided further*, there shall be no docket fee for filing a petition pursuant to this section. *On and after July 1, 2009 through June 30, 2010, the supreme court may impose a charge, not to exceed \$10 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.* All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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

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

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2008 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

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

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

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

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

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2008 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

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

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

(1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

(11) the Kansas sentencing commission;

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

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

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

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

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

Sec. 12. K.S.A. 22-2410 is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney

and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. *Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.* The petition shall state:

- (1) The petitioner's full name;
- (2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;
- (3) the petitioner's sex, race and date of birth;
- (4) the crime for which the petitioner was arrested;
- (5) the date of the petitioner's arrest; and
- (6) the identity of the arresting law enforcement agency.

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

- (2) a court has found that there was no probable cause for the arrest;
- (3) the petitioner was found not guilty in court proceedings; or
- (4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services;

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

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

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

(5) in any application for a commercial driver’s license under K.S.A. 8-2,125 through 8-2,142 and amendments thereto;

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

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

(8) in any other circumstances which the court deems appropriate.

(f) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(g) Whenever a petitioner’s arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(h) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 13. K.S.A. 2008 Supp. 23-108a is hereby amended to read as follows: 23-108a. (a) The judge or clerk of the district court shall collect from the applicant for a marriage license a fee of \$59.

(b) The clerk of the court shall remit all fees prescribed by this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each remittance, the state treasurer shall credit 38.98% to the protection from abuse fund, 15.19% to the family and children trust account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto, 16.95% to the crime victims assistance fund created by K.S.A. 74-7334, and amendments thereto, 15.25% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2008 Supp. 20-1a15, and amendments thereto, and the remainder to the state general fund.

(c) ~~The marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per marriage license fee, to fund the costs of non-judicial personnel.~~

Sec. 14. K.S.A. 2008 Supp. 28-170 is hereby amended to read as follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto and the fees for service of process, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto. For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

1. For filing, entering and releasing a bond, mechanic’s lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued \$14
2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued \$24
3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases

shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the revised Kansas code for care of children (K.S.A. 2008 Supp. 38-2201 et seq. and amendments thereto), the revised Kansas juvenile justice code (K.S.A. 2008 Supp. 38-2301 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 59-2945 et seq. and amendments thereto), the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

(d) In actions pursuant to the revised Kansas code for care of children (K.S.A. 2008 Supp. 38-2201 et seq. and amendments thereto), the revised Kansas juvenile justice code (K.S.A. 2008 Supp. 38-2301 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 59-2945 et seq. and amendments thereto), the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b and amendments thereto.

(e) *The bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per bond, lien or judgment fee, to fund the costs of non-judicial personnel.*

Sec. 15. K.S.A. 2008 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

(1) On and after July 1, 2008 through June 30, 2010:		
Murder or manslaughter.....	\$181.50	\$182.50
Other felony.....	172.00	173.00
Misdemeanor.....	137.00	138.00
Forfeited recognizance	73.50	74.50
Appeals from other courts.....	73.50	74.50
(2) On and after July 1, 2010:		
Murder or manslaughter.....	\$179.50	\$180.50
Other felony.....	170.00	171.00
Misdemeanor.....	135.00	136.00
Forfeited recognizance	71.50	72.50
Appeals from other courts.....	71.50	72.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2008 through June 30, 2010, a docket fee of ~~\$75~~ \$76 shall be charged, and on and after July 1, 2010, a docket fee of ~~\$73~~ \$74 shall be charged. When an action is disposed

of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, on and after July 1, 2008 through June 30, 2010, the docket fee to be paid as court costs shall be ~~\$75~~ \$76, and on and after July 1, 2010, the docket fee to be paid as court costs shall be ~~\$73~~ \$74.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2008 through June 30, 2010, a docket fee of ~~\$75~~ \$76 shall be charged, and on and after July 1, 2010, a docket fee of ~~\$73~~ \$74 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, on and after July 1, 2008 through June 30, 2010, the docket fee to be paid as court costs shall be ~~\$75~~ \$76, and on and after July 1, 2010, the docket fee to be paid as court costs shall be ~~\$73~~ \$74.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) ~~The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.~~

Sec. 16. K.S.A. 2008 Supp. 28-177 is hereby amended to read as follows: 28-177. ~~The fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filing fees or other fees related to access to court procedures. (a) Except as provided further, the fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees,~~

filing fees or other fees related to access to court procedures. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel.

(b) Any additional charge imposed by the court pursuant to section 1, K.S.A. 8-2107, 8-2110, 21-4619, 22-2410, 23-108a, 28-170, 28-172a, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and K.S.A. 2008 Supp. 38-2215 and 38-2314, and amendments thereto, 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 judicial branch surcharge fund, which is hereby created in the state treasury.

(c) All moneys credited to the judicial branch surcharge fund shall be used for compensation of non-judicial personnel and shall not be expended for compensation of judges or justices of the judicial branch.

(d) All expenditures from the judicial branch surcharge fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

Sec. 17. K.S.A. 2008 Supp. 38-2215 is hereby amended to read as follows: 38-2215. (a) *Docket fee.* The docket fee for proceedings under this code, if one is assessed as provided in this section, shall be \$34. Only one docket fee shall be assessed in each case. *Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.*

(b) Expenses. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) *Docket fee.* The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and the docket fee may be assessed against the complaining witness or person initiating the proceedings or a party or interested party other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state, or a person acting in the capacity of an employee of the state or of a political subdivision of the state. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be assessed against the complaining witness, a person initiating the proceedings, a party or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. When expenses are recovered from a person against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery. If it appears to the court in any proceedings under this code that expenses were unreasonably incurred at the request of any party the court may assess that portion of the expenses against the party.

(d) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 18. K.S.A. 2008 Supp. 38-2314 is hereby amended to read as follows: 38-2314. (a) *Docket fee.* The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$34. Only one docket fee shall be assessed in each case. *Except as*

provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket fee may be assessed or waived by the court conducting the initial sentencing hearing and may be assessed against the juvenile or the parent of the juvenile. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be waived or assessed against the juvenile or a parent of the juvenile. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) *Prohibited assessment.* Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) *Cases in which venue is transferred.* If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportionate share of the expenses is collected by the receiving court. Unless otherwise ordered by the court, all amounts collected shall first be applied toward payment of restitution, then toward the payment of the docket fee.

Sec. 19. K.S.A. 2008 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

(A) On and after July 1, 2008 through June 30, 2010:	
Treatment of mentally ill	\$59.00
Treatment of alcoholism or drug abuse.....	36.50
Determination of descent of property	51.50
Termination of life estate.....	50.50
Termination of joint tenancy	50.50
Refusal to grant letters of administration	50.50
Adoption.....	50.50
Filing a will and affidavit under K.S.A. 59-618a.....	50.50
Guardianship.....	71.50
Conservatorship.....	71.50
Trusteeship.....	71.50
Combined guardianship and conservatorship.....	71.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	25.50
Decrees in probate from another state	110.50
Probate of an estate or of a will.....	111.50
Civil commitment under K.S.A. 59-29a01 et seq.....	35.50
(B) On and after July 1, 2010:	
Treatment of mentally ill	34.50
Treatment of alcoholism or drug abuse.....	34.50
Determination of descent of property	49.50

Termination of life estate	48.50
Termination of joint tenancy	48.50
Refusal to grant letters of administration	48.50
Adoption.....	48.50
Filing a will and affidavit under K.S.A. 59-618a.....	48.50
Guardianship.....	69.50
Conservatorship.....	69.50
Trusteeship.....	69.50
Combined guardianship and conservatorship.....	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	23.50
Decrees in probate from another state	108.50
Probate of an estate or of a will.....	109.50
Civil commitment under K.S.A. 59-29a01 et seq.....	33.50

(2) ~~The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.~~

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.”;

And by renumbering the remaining sections accordingly;

On page 4, by striking all in line 16 and inserting the following:

“Sec. 22. K.S.A. 2008 Supp. 60-1621 is hereby amended to read as follows: 60-1621.

(a) No post-decree motion petitioning for a modification or termination of separate maintenance, for a change in legal custody, residency, visitation rights or parenting time or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of \$42 on and after July 1, 2008 through June 30, 2010, and \$40 on and after July 1, 2010, to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

~~(d) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or~~

otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

Sec. 23. K.S.A. 2008 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$156 on and after July 1, 2008 through June 30, 2010, and \$154 on and after July 1, 2010, to the clerk of the district court. ~~The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.~~ On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 24. K.S.A. 2008 Supp. 60-2203a is hereby amended to read as follows: 60-2203a. (a) After the commencement of any action in any district court of this state, or the courts

of the United States in the state of Kansas or in any action now pending heretofore commenced in such courts, which does not involve title to real estate, any party to such action may give notice in any other county of the state of the pendency of the action by filing for record with the clerk of the district court of such other county a verified statement setting forth the parties to the action, the nature of the action, the court in which it is pending, and the relief sought, which shall impart notice of the pendency of the action and shall result in the same lien rights as if the action were pending in that county. The lien shall be effective from the time the statement is filed, but not to exceed four months prior to the entry of judgment except as provided in subsection (c). The party filing such notice shall within 30 days after any satisfaction of the judgment entered in such action, or any other final disposition thereof, cause to be filed with such clerk of the district court a notice that all claims in such action are released. If the party filing fails or neglects to do so after reasonable demand by any party in interest, such party shall be liable in damages in the same amounts and manner as is provided by law for failure of a mortgagee to enter satisfaction of a mortgage. Upon the filing of such a notice of the pendency of an action the clerk shall charge a fee of \$14 and shall enter and index the action in the same manner as for the filing of an original action. Upon the filing of a notice of release, the notice shall likewise be entered on the docket. ~~The fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel.~~

(b) Any notice of the type provided for in subsection (a) which was filed on or after January 10, 1977, and prior to the effective date of this act shall be deemed to impart notice of the pendency of the action in the same manner as if the provisions of subsection (a) were in force and effect on and after January 10, 1977.

(c) Notwithstanding the foregoing provisions of this section, the filing of a notice of the pendency of an action pursuant to subsection (a) shall create no lien rights against the property of an employee of the state or a municipality prior to the date judgment is rendered if the pleadings in the pending action allege a negligent or wrongful act or omission of the employee while acting within the scope of such employee's employment, regardless of whether or not it is alleged in the alternative that the employee was acting outside of such employee's employment. A judgment against an employee shall become a lien upon such employee's property in the county where notice is filed pursuant to subsection (a) when the judgment is rendered only if it is found that (1) the employee's negligent or wrongful act or omission occurred when the employee was acting outside the scope of such employee's employment or (2) the employee's conduct which gave rise to the judgment was because of actual fraud or actual malice of the employee. In such cases the lien shall not be effective prior to the date judgment was rendered. As used in this subsection (c), "employee" shall have the meaning ascribed to such term in K.S.A. 75-6102, and amendments thereto.

Sec. 25. K.S.A. 2008 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of \$39 on and after July 1, 2008 through June 30, 2010, and \$37 on and after July 1, 2010, if the claim does not exceed \$500; or \$59 on and after July 1, 2008 through June 30, 2010, and \$57 on and after July 1, 2010, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs

required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.

~~(c) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.~~

Sec. 26. K.S.A. 2008 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of \$37 on and after July 1, 2008 through June 30, 2010, and \$35 on and after July 1, 2010, if the amount in controversy or claimed does not exceed \$500; \$57 on and after July 1, 2008 through June 30, 2010, and \$55 on and after July 1, 2010, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or \$103 on and after July 1, 2008 through June 30, 2010, and \$101 on and after July 1, 2010, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs; exemptions for the state and municipalities. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001 and 60-2005 and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

~~(c) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2009 through June 30, 2010, the supreme court may impose an additional charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial personnel.~~

Sec. 27. K.S.A. 20-362, 20-2207, 20-2208, 20-3207, 22-2410, 59-2971 and 59-29b71 and K.S.A. 2008 Supp. 8-2107, 8-2110, 20-3002, 20-3202, 20-3205, 21-4619, 21-4619d, 23-108a, 28-170, 28-172a, 28-177, 38-1511, 38-1613, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 10 through 14 and inserting the following: “AN ACT concerning courts; relating to court fees and costs; creating the judicial branch surcharge fund; relating to docket fees; prosecuting attorneys’ training fund; judicial council; commission on judicial performance; funding the Kansas criminal code recodification commission; court of appeals; district courts; transmittal of documents; amending K.S.A. 20-362, 20-2207, 20-2208, 20-3207, 22-2410, 59-2971 and 59-29b71 and K.S.A. 2008 Supp. 8-2107, 8-2110, 20-3002, 20-3202, 20-3205, 21-4619, 23-108a, 28-170, 28-172a, 28-177, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 21-4619d, 38-1511 and 38-1613.”;

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

LANCE KINZER
JEFF WHITHAM
JANICE L. PAULS
Conferees on part of House

THOMAS C. OWENS
DEREK SCHMIDT
DAVID HALEY

Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **SB 66**.
On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostneyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pyle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **HB 2052; S Sub for HB 2072** and **HB 2162**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2052**, submits the following report:

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

On page 1, following line 14, by inserting the following:

“New Section 1. Sections 1 through 19, and amendments thereto, shall be known and may be cited as the public adjusters licensing act, and it shall govern the qualifications and procedures for the licensing of public adjusters, on and after July 1, 2009. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

New Sec. 2. As used in sections 1 through 19, and amendments thereto: (a) “Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(b) “Catastrophic disaster” means, according to the federal response plan, an event:

(1) Declared by the president of the United States or governor of Kansas;

(2) results in large numbers of deaths and injuries;

(3) causes extensive damage or destruction of facilities that provide and sustain human needs;

(4) produces an overwhelming demand on state and local response resources and mechanisms;

(5) causes a severe long-term effect on general economic activity; and

(6) severely affects state, local and private sector capabilities to begin and sustain response activities.

(c) “Commissioner” means the state commissioner of insurance.

(d) “FBI” means the federal bureau of investigation.

(e) “Fingerprint” means an impression of the lines on a finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

(f) “Home state” means the District of Columbia and any state or territory of the United States in which a public adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a law governing public adjusters substantially similar to this act, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

(g) “KBI” means the Kansas bureau of investigation.

(h) "Licensed public adjuster" means a public adjuster licensed in accordance with this act.

(i) "NAIC" means the national association of insurance commissioners and its affiliates and subsidiaries.

(j) "Person" means an individual or a business entity.

(k) "Public adjuster" means any individual who:

(1) For compensation or any other thing of value, and solely in relation to first party claims arising under insurance claims or contracts that insure the real or personal property of the insured, aids or acts on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by and limited to commercial lines insurance contracts;

(2) advertises for employment as a public adjuster of insurance claims or directly or indirectly solicits business or represents to the public that such person is a public adjuster of first party insurance claims for losses or damages to real or personal property covered by and limited to commercial lines insurance contracts; or

(3) for compensation or any other thing of value, investigates or adjusts losses or advises an insured about first party claims for losses or damages to real or personal property of the insured covered by and limited to commercial lines insurance contracts, for another person engaged in the business of adjusting losses or damages covered by and limited to commercial lines insurance contracts.

(l) "Uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

(m) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

New Sec. 3. (a) A person shall not act as or represent that such person is a public adjuster in this state unless the person is an individual licensed as a public adjuster in accordance with this act.

(b) A licensed public adjuster shall not misrepresent to a claimant that the individual is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster, unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the licensed public adjuster.

(c) Notwithstanding the provisions of this section, a license as a public adjuster shall not be required of the following:

(1) An attorney-at-law admitted to practice in this state, when acting in such person's professional capacity as an attorney;

(2) a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) a person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers and handwriting experts;

(4) a licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) a person who settles subrogation claims between insurers.

New Sec. 4. (a) An individual applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.

(b) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension or revocation of the license, that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.

(c) In order to make a determination of license eligibility, the commissioner shall require a criminal history record check on each applicant who is not exempt from pre-licensing examination pursuant to section 7, and amendments thereto.

New Sec. 5. (a) Before issuing a public adjuster license to an applicant under this act, the commissioner shall find that the applicant:

- (1) Is eligible to designate this state as the applicant's home state or is a nonresident who is not eligible for a license under section 8, and amendments thereto;
 - (2) has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in section 10, and amendments thereto;
 - (3) is trustworthy, reliable and of good reputation, evidence of which may be determined by the commissioner;
 - (4) is financially responsible to exercise the rights and privileges under the license and has provided proof of financial responsibility as required in section 11, and amendments thereto;
 - (5) has paid an application fee of \$100; and
 - (6) maintains an office in the home state with public access during regular business hours or by reasonable appointment.
- (b) In addition to satisfying the requirements of subsection (a), an applicant shall
 - (1) Be at least 18 years of age; and
 - (2) have successfully passed the public adjuster examination.
 - (c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

New Sec. 6. (a) An applicant for a public adjuster license under this act shall pass a written examination, unless exempt from this requirement pursuant to section 7, and amendments thereto. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.

(b) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

(c) An applicant who fails to appear for the examination as scheduled or fails to pass the examination may retake the examination following a waiting period of not less than seven days following the date of the first examination. If the applicant again fails to satisfactorily complete the examination, the applicant may retake the examination following a waiting period of not less than seven days following the date of the second examination. If the applicant again fails to satisfactorily complete the examination, the applicant may retake the examination following a waiting period of not less than six months following the date of the third examination, except that following a waiting period of not less than two years following the date of the third examination, the applicant will be treated as a new applicant and new examination and waiting periods shall apply.

New Sec. 7. (a) An applicant who applies for a public adjuster license in this state, who is currently licensed as a public adjuster in another state based on the individual's passage of a public adjuster examination, shall not be required to complete any pre-licensing examination.

(b) An individual licensed as a public adjuster in another state, based on the individual's passage of a public adjuster examination, who moves to this state shall make application within 90 days of establishing legal residence in this state to become a resident licensee pursuant to section 5, and amendments thereto. No pre-licensing examination shall be required of that individual to obtain a public adjuster license.

(c) An individual who applies for a public adjuster license in this state and who was previously licensed as a public adjuster in this state, shall not be required to complete any pre-licensing examination, if the individual's application for licensure as a public adjuster is received within 12 months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

New Sec. 8. (a) Unless denied licensure pursuant to section 10, and amendments thereto, a nonresident individual shall receive a nonresident public adjuster license, if:

- (1) The individual is currently licensed and in good standing as a resident public adjuster in that individual's home state;
- (2) the individual has submitted the proper request for licensure, has paid the appropriate fee required by section 5, and amendments thereto, and, if required by the commissioner to do so, has provided proof of financial responsibility in accordance with section 11, and amendments thereto;

(3) the individual has submitted to the commissioner the appropriate completed application for licensure; and

(4) the individual's home state awards nonresident public adjuster licenses to residents of this state on the same basis.

(b) The commissioner may verify the public adjuster's licensing status through the producer database maintained by the NAIC.

(c) As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in the licensee's home state. The nonresident public adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner, if the home state public adjuster license terminates for any reason, unless the public adjuster has a new home state and has been issued a license as a resident public adjuster in the new home state. Notification to the state or states where the nonresident license is issued must be made as soon as practicable, but no later than 30 days of a change in the new home state resident license. The licensee shall include in such notification the licensee's new and old addresses. A new home state resident license is required for a nonresident license to remain valid, and the new home state must have reciprocity with this state, in order for the nonresident license to remain valid.

New Sec. 9. (a) An individual who has met the requirements for licensure under this act shall be issued a public adjuster license. A public adjuster license shall remain in effect, unless revoked, terminated or suspended, as long as the request for renewal is timely submitted and a license renewal fee of \$100 is paid and any other requirements for license renewal are met by the due date. The licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address, change of legal name or change of information submitted on the application within 30 days of the change.

(b) A public adjuster shall be subject to the provisions of subsection (9) of K.S.A. 40-2404, and amendments thereto.

(c) A public adjuster who allows such person's license to lapse may, within 12 months from the due date of the renewal, be issued a new public adjuster license upon the commissioner's receipt of proof that the licensee has satisfactorily completed the renewal process and the licensee's payment of a reinstatement fee of \$100. The new public adjuster license shall be effective the date the commissioner receives such proof and the reinstatement fee.

(d) A licensed public adjuster that is unable to comply with license renewal procedures due to military service, a long-term medical disability or some other extenuating circumstance, may request an extension of time to comply with those procedures.

(e) The public adjuster license shall contain the licensee's name, city and state of business address, personal identification number, the date of issuance, the expiration date and any other information the commissioner deems necessary.

(f) In order to assist in the performance of the commissioner's duties, the commissioner may contract with non-governmental entities, including the NAIC, to perform any ministerial functions, including the collection of fees and data related to licensing that the commissioner may deem appropriate.

New Sec. 10. (a) The commissioner may suspend, revoke or refuse to issue or renew a public adjuster's license for any of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) violating:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) misappropriating, converting or improperly withholding any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

- (6) having been convicted of a misdemeanor or felony;
- (7) having admitted or committed any insurance unfair trade practice or insurance fraud;
- (8) using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
- (9) having an insurance license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
- (10) forging another's name to an application for insurance or to any document related to an insurance transaction;
- (11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;
- (12) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;
- (13) failing to comply with an administrative or court order imposing a child support obligation upon the applicant or license holder; or
- (14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of a public adjuster's license if the commissioner finds that the interests of the public are not properly served under such license. Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act.

(c) In lieu of any action under subsection (a), the commissioner may:

- (1) Censure the individual; or
- (2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation, but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation, unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation, but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the original violation.

(d) The commissioner shall remit all such fines collected under subsection (c) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act against any individual who is under investigation for or charged with a violation of this act, even if the individual's license or registration has been surrendered or has lapsed by operation of law.

New Sec. 11. (a) Prior to issuance of a public adjuster license and for the duration of the license, the commissioner may require the applicant to furnish evidence of financial responsibility, in a format prescribed by the commissioner, by means of:

(1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:

- (A) Shall be in such reasonable amount as the commissioner may require;
- (B) shall be in favor of the commissioner and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustains damages as the result of erroneous acts, failure to act, conviction of fraud or conviction of unfair practices in the applicant's capacity as a public adjuster; and
- (C) shall not be terminated unless at least 30-days prior written notice has been filed by the insurer with the commissioner and given to the licensee.

(2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:

- (A) Shall be in such reasonable amount as the commissioner may require;
 - (B) shall be to an account of the commissioner and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts or unfair practices in the applicant's capacity as a public adjuster; and
 - (C) shall not be terminated unless at least 30-days prior written notice has been filed by the issuer with the commissioner and given to the licensee.
- (b) Where the commissioner has required an applicant to furnish evidence of financial responsibility pursuant to subsection (a):
 - (1) The issuer of the evidence of financial responsibility shall notify the commissioner upon termination of the bond or letter of credit, unless otherwise directed by the commissioner;
 - (2) the commissioner may ask for the evidence of the public adjuster's financial responsibility at any time the commissioner deems relevant; and
 - (3) the authority to act as a public adjuster shall terminate automatically if the evidence of financial responsibility terminates or becomes impaired.

New Sec. 12. (a) As used in this section:

- (1) "Biennial due date" means the date of birth of any public adjuster who is required to complete continuing education credits and report the completion of the continuing education credits to the commissioner, except that such due date shall not be earlier than two years from the date of the public adjuster's initial licensure under this act.
- (2) "Biennium" means, for any public adjuster who was born in an odd-numbered year, the two-year period starting with the public adjuster's biennial due date in 2011 and each two-year period thereafter. For any public adjuster who was born in an even-numbered year, such term means the two-year period starting with the public adjuster's biennial due date in 2012 and each two-year period thereafter.
- (b) An individual, who holds a public adjuster license and who is not exempt under subsection (d), shall satisfactorily complete a minimum of 12 hours of continuing education courses, which shall include 11 hours of property/casualty or general continuing education courses and one hour of ethics, reported on a biennial basis in conjunction with the license renewal cycle. Only continuing education courses approved by the commissioner shall be used to satisfy the requirements of this subsection.
- (c) Unless suspended, revoked or refused renewal pursuant to section 10, and amendments thereto, a public adjuster's license shall remain in effect as long as the education requirements for a resident public adjuster are met by such public adjuster's biennial due date.
- (d) The continuing education requirements of this section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

New Sec. 13. (a) No public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee or other thing of value equal to more than 10% of any insurance settlement or proceeds.

- (b) A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling first party claims in this state, if that person is a business entity or is an individual required to be licensed under this act and is not so licensed.
- (c) A person shall not accept a commission, service fee or other valuable consideration for investigating or settling first party claims in this state, if that person is a business entity or is an individual required to be licensed under this act and is not so licensed.
- (d) No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit or other thing of value, prior to settlement of a claim.

New Sec. 14. (a) Public adjusters shall ensure that all contracts for their services are in writing and contain the following:

- (1) Legible full name of the public adjuster signing the contract;
- (2) permanent home state business address and phone number of the public adjuster;
- (3) the public adjuster's license number;

- (4) title of "public adjuster contract";
 - (5) the insured's full name, street address, insurance company name and policy number, if known or upon notification;
 - (6) a description of the loss and its location, if applicable;
 - (7) description of services to be provided to the insured;
 - (8) signatures of the public adjuster and the insured;
 - (9) the date the contract was signed by the public adjuster and the date the contract was signed by the insured;
 - (10) attestation language stating that the public adjuster is fully bonded pursuant to this act; and
 - (11) full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services to be rendered by the public adjuster for or on behalf of the insured.
- (b) The public adjuster contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Compensation provisions in a public adjuster contract shall not be redacted in any copy of the contract provided to the commissioner.
- (c) If the insurer, not later than 72 hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:
- (1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
 - (2) inform the insured that the loss recovery amount might not be increased by the insurer; and
 - (3) be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.
- (d) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, including, but not limited to, any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. As used in this subsection, the word "firm" shall include any individual or business entity.
- (e) A public adjuster contract may not contain any contract term that:
- (1) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;
 - (2) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;
 - (3) imposes collection costs or late fees; or
 - (4) precludes a public adjuster from pursuing civil remedies.
- (f) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:
- (1) Property insurance policies obligate the insured to present a claim to the insured's insurance company for consideration;
 - (2) there are three types of adjusters that could be involved in that process, and they are as follows:
 - (A) A company adjuster who is an employee of an insurance company, represents the interest of the insurance company, is paid by the insurance company and will not charge the insured a fee;

(B) an independent adjuster who is hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim, who is paid by the insured's insurance company and will not charge the insured a fee; or

(C) a public adjuster who does not work for any insurance company but works for an insured to assist in the preparation, presentation and settlement of a claim. An insured engages a public adjuster by signing a contract agreeing to pay the public adjuster a fee or commission based on a percentage of the settlement, or other method of compensation;

(3) the insured is not required to hire a public adjuster to help the insured meet the insured's obligations under the policy, but has the right to do so;

(4) the insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster and the insurer's attorney, or any other person regarding the settlement of the insured's claim;

(5) the public adjuster is not a representative or employee of the insurer;

(6) the salary, fee, commission or other consideration is the obligation of the insured, not the insurer.

(g) The contracts shall be executed in duplicate to provide an original contract to the public adjuster and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the commissioner.

(h) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.

(i) The insured has the right to rescind the public adjuster contract within three business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three business day period.

(j) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within 15 business days following the receipt by the public adjuster of the rescission notice.

New Sec. 15. (a) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:

(1) Name of the insured;

(2) date, location and amount of the loss;

(3) copy of the contract between the public adjuster and insured;

(4) name of the insurer and the amount, expiration date and number of each policy carried by the insured with respect to the loss;

(5) itemized statement of the insured's recoveries;

(6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;

(7) a register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest-bearing accounts;

(8) name of public adjuster who executed the contract;

(9) name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and

(10) evidence of financial responsibility in the format prescribed by the commissioner.

(b) Records shall be maintained for at least five years after the termination of the transaction with an insured and shall be open to examination by the commissioner at all times.

(c) Records submitted to the commissioner in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the commissioner and shall not be open for inspection under the Kansas open records act.

(d) The provisions of subsection (c) shall expire on July 1, 2014, unless the legislature acts to reenact such provisions. The provisions of subsection (c) shall be reviewed by the legislature prior to July 1, 2014.

New Sec. 16. (a) A public adjuster is obligated, under the public adjuster's license, to serve with objectivity and complete loyalty, the interest of the insured only and to render to the insured such information, counsel and service, as within the knowledge, understanding

and opinion in good faith of the public adjuster, as will best serve the insured's insurance claim needs and interest.

(b) A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.

(c) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this act.

(d) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in section 14, and amendments thereto.

(e) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured, unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in section 14, and amendments thereto.

(f) The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, unless disclosed to the insured:

(1) With whom the public adjuster has a financial interest; or

(2) from whom the public adjuster may receive direct or indirect compensation for the referral.

(g) The public adjuster shall disclose to an insured if the public adjuster has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. As used in this subsection "firm" shall include any business entity or individual.

(h) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing, including the source and amount of any such compensation.

(i) Public adjusters shall adhere to the following general ethical requirements:

(1) A public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;

(2) a public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;

(3) no licensed public adjuster may represent or act as a company adjuster or independent adjuster on the same claim;

(4) the public adjuster contract shall not be construed to prevent an insured from pursuing any civil remedy after the three-business day revocation or cancellation period;

(5) a public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and

(6) a public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

(j) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

New Sec. 17. (a) The public adjuster shall report to the commissioner any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(b) Within 30 days of the initial pretrial hearing date, the public adjuster shall report to the commissioner any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

New Sec. 18. The commissioner shall promulgate such reasonable rules and regulations as are necessary to carry out the provisions of this act. The commissioner shall adopt such rules and regulations by July 1, 2010.

New Sec. 19. If any provisions of this act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

New Sec. 20. On and after July 1, 2009, the commissioner may adopt by rules and regulations, any later version of the RBC instructions promulgated by the NAIC, which are consistent with the provisions of this act, including the provisions of K.S.A. 40-2c03, and amendments thereto, provided that before any later version may be adopted by the commissioner in rules and regulations, the commissioner shall prepare an impact statement indicating the projected impact upon domestic insurers and notify any affected insurer of the projected impact. If the projected impact is likely to cause the amount of a domestic insurer's total adjusted capital or its RBC report for the previous year to vary by more than 2.5% or to cause a domestic insurer's control level to change upon application of the later version of the risk-based capital instructions, then such later version shall not be adopted in rules and regulations until such later version is approved by legislative action.

Sec. 21. On and after July 1, 2009, K.S.A. 2008 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

- (a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.
- (b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.
- (c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.
- (d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.
- (e) "NAIC" means the national association of insurance commissioners.
- (f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.
- (g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.
- (h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).
- (i) "RBC" means risk-based capital.
- (j) "RBC instructions" mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2007~~ 2008, or any later version promulgated by the NAIC as may be adopted by the commissioner under section 20, and amendments thereto.
- (k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:
 - (1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;
 - (2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;
 - (3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and
 - (4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.
- (l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

- (1) An insurer's capital and surplus or surplus only if a mutual insurer; and
- (2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Sec. 22. On and after July 1, 2009, K.S.A. 2008 Supp. 40-229a is hereby amended to read as follows: 40-229a. (a) (1) (A) All cash, securities, real estate deeds, mortgages or other assets deposited with the commissioner of insurance pursuant to the provisions of the insurance code of the state of Kansas shall be deposited with any Kansas financial institution acceptable to the commissioner through which a custodial or controlled account, a joint custody receipt arrangement or any combination of these or other measures that are acceptable to the commissioner is used.

(B) All such deposits shall be held by such financial institution on behalf of the commissioner in trust for the use and benefit of such company and such company's policyholders and creditors. Such assets shall be released from such deposits only upon written approval of the commissioner.

(C) All income from deposits belong to the depositing organization and shall be paid to it as it becomes available. The commissioner, upon written approval, may direct the financial institution to permit exchange of securities or assets upon deposit of specified substituted securities or assets.

(D) All forms for deposit, withdrawal or exchange shall be prescribed, prepared and furnished by the commissioner and no facsimile signatures shall be used or recognized.

(E) The commissioner or assistant commissioner of insurance or insurance department employee authorized by the commissioner may at any time inspect the securities on deposit in any such financial institution.

(F) Nothing in this act shall be construed to hold the state of Kansas, the commissioner, assistant commissioner or authorized employee liable either personally or officially for any default of such financial institution.

(2) Real estate shall be deposited with the commissioner by the depositing organization executing a deed or assignment conveying title thereto to the commissioner, in trust for the use and benefit of such company. Such deeds or assignment shall be recorded in the office of the register of deeds of the county in which such real estate is situated. When the depositing organization is authorized to withdraw real estate from deposit, the commissioner shall execute deeds to such organization or such other persons, companies or corporations as directed by such organization. The costs of registering such deeds shall be paid by the depositing organization.

(3) All deposits made with the commissioner shall be audited by the commissioner and the state treasurer not less frequently than once each three years. The commissioner may accept an audit performed by another governmental agency acceptable to the commissioner, in lieu of this audit requirement.

(b) Assets, except real estate assets, deposited pursuant to this section shall be held by the custodian on behalf of the commissioner as in trust for the use and benefit of the depositing organization. Such assets shall remain the specific property of the organization and shall not be subject to the claim of any third party against the custodian.

(c) The custodian is authorized to redeposit such assets with a clearing corporation as defined in K.S.A. 84-8-102 and amendments thereto, if such clearing corporation is domiciled in the United States. The custodian is authorized to hold such assets through the federal reserve bank book-entry system.

(d) The commissioner shall adopt rules and regulations to establish requirements relating to deposits under this section appropriate to assure the security and safety of such deposits, including but not limited to the following:

- (1) Capital and surplus of the custodian;
- (2) title in which deposited assets are held;
- (3) records to be kept by the custodian and the commissioner's access thereto;
- (4) periodic reports by the custodian to the commissioner;
- (5) responsibility of the custodian to indemnify the depositor for loss of deposited assets;

(6) withdrawal or exchange of deposited assets; and
 (7) authority of the commissioner to terminate the deposit if the condition of the custodian should threaten the security of the deposited assets.

(e) As used in this section:

(1) "Commissioner" means the commissioner of insurance; and

(2) "financial institution" means a *federal home loan bank*, a savings and loan association and savings bank organized under the laws of the United States or another state, a national bank, state bank or trust company, which have main or branch offices in this state, shall at all times during which such *federal home loan bank*, savings and loan association, savings bank, national bank, state bank or trust company acts as a custodian be:

(A) No less than adequately capitalized as determined by the standards adopted by the ~~United States banking regulators~~ *regulator charged with establishing standards for, and assessing, the institution's solvency;*

(B) regulated by either state or federal banking laws, *the federal home loan bank act, as amended* or is a member of the federal reserve system; and

(C) legally qualified to accept custody of securities.

(3) "Main office" and "branch" shall have the meanings ascribed to such terms in K.S.A. 9-1408 and amendments thereto.

Sec. 23. On and after July 1, 2009, K.S.A. 40-2a20 is hereby amended to read as follows: 40-2a20. (a) Any insurance company other than life organized under any law of this state, with the direction or approval of a majority of its board of directors or authorized committee thereof, may:

(1) Adopt a nominee name unique to such insurance company in which such insurance company's securities may be registered;

(2) designate a state or national bank *or a federal home loan bank* having trust powers to obtain a nominee name for such insurance company in which such insurance company's securities may be registered; or

(3) designate a state or national bank having trust powers as trustee to make any investment authorized by this act in the name of such trustee or such trustee's nominee.

(b) Under the provisions of paragraphs (2) and (3) of subsection (a), the designated state or national bank *or the federal home loan bank* may arrange for such securities to be held in a clearing corporation. Such arrangement must be in accordance with a written agreement, approved by the commissioner of insurance, between the insurance company and its designated bank and must impose the same degree of responsibility on the bank as if such securities were held in definitive form by such bank.

(c) As used in this section "clearing corporation" means: (1) A corporation defined in subsection (5) of K.S.A. 84-8-102, and amendments thereto;

(2) any organization or system for clearance and settlement of securities transactions which is operated or owned by a bank, trust company or other entity that is subject to regulation by the United States federal reserve board or the United States comptroller of the currency; or

(3) any clearing agency registered with the securities and exchange commission pursuant to the securities exchange act of 1934, section 17A, and amendments thereto.

Sec. 24. On and after July 1, 2009, K.S.A. 40-2b20 is hereby amended to read as follows: 40-2b20. (a) Any life insurance company organized under any law of this state, with the direction or approval of a majority of its board of directors, may:

(1) Adopt a nominee name unique to such insurance company in which such insurance company's securities may be registered;

(2) designate a state or national bank *or a federal home loan bank* having trust powers to obtain a nominee name for such insurance company in which such insurance company's securities may be registered; or

(3) designate a state or national bank having trust powers as trustee to make any investment authorized by this act in the name of such trustee or such trustee's nominee.

(b) Under the provisions of paragraphs (2) and (3) of subsection (a), the designated state or national bank *or the federal home loan bank* may arrange for such securities to be held in a clearing corporation. Such arrangement must be in accordance with a written agreement, approved by the commissioner of insurance, between the insurance company and its

designated bank and must impose the same degree of responsibility on the bank as if such securities were held in definitive form by such bank.

(c) As used in this section "clearing corporation" means: (1) A corporation defined in subsection (3) of K.S.A. 84-8-102, and amendments thereto;

(2) any organization or system for the clearance and settlement of securities transactions which is operated or owned by a bank, trust company or other entity that is subject to regulation by the United States federal reserve board or the United States comptroller of the currency; or

(3) any clearing agency registered with the securities and exchange commission pursuant to the securities exchange act of 1934, section 17A, and amendments thereto.

Sec. 25. On and after July 1, 2009, K.S.A. 2008 Supp. 40-2136 is hereby amended to read as follows: 40-2136. Each issuer of qualified long-term care partnership program policies in this state shall: (a) Provide regular reports to both the secretary of the United States department of human services in accordance with federal law and regulations and to the Kansas health policy authority and the commissioner of insurance as provided in section 6021 of the federal deficit reduction act of 2005, public law 109-171.

(b) Provide to consumers a notice explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified state long-term care insurance partnership policy at a time and in a manner to be determined by the commissioner of insurance.

(c) Submit a partnership certification form signed by an officer of the company with all policies submitted for certification as partnership policies.

(d) Obtain verification that producers receive training required by the commissioner of insurance before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records of compliance, and make the verification available to the commissioner of insurance upon request.

(e) Maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the department of insurance to provide assurance to the Kansas health policy authority that producers have received the training required by the commissioner of insurance and that producers have demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long-term care, including medical assistance in this state. These records shall be maintained and made available to the commissioner of insurance upon request.

(f) (1) *Offer, on a one time basis, in writing, to all existing policyholders that were issued long-term care coverage of the type certified by the insurer on or after February 8, 2006, the option to exchange their existing long-term care coverage for coverage that is intended to qualify under Kansas' long-term care partnership program. The mandatory offer of an exchange shall only apply to products issued by the insurer that are comparable to the type of policy form, such as group policies and individual policies and on the policy series that the company has certified as partnership qualified;*

(2) *the offer shall remain open for a minimum of 45 days from the date of mailing by the insurer;*

(3) *the offer shall be made on a nondiscriminatory basis without regard to the age or health status of the insured. However, the insurer may underwrite if the policy is amended to provide additional benefits or the exchange would require the issuance of a new policy. Any portion of the policy that was issued prior to the exchange date shall be priced based on the policyholder's age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder's age at the time of the exchange;*

(4) *if there is no change in coverage material to the risk, policies exchanged under this provision shall not be subject to any medical underwriting;*

(5) *notwithstanding paragraphs (1) and (3), an insurer is not required to offer an exchange to an individual who is eligible for benefits within an elimination period, who is, or who has been in claim status or who would not be eligible to apply for coverage due to issue age or plan design limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including plan design, underwriting, if applicable and payment of the required premium;*

(6) policies issued pursuant to this section shall be considered exchanges and not replacements and are not subject to K.A.R. 40-4-37i; and

(7) a policy received in an exchange after the effective date of the long-term care partnership program act is treated as newly issued and is eligible for partnership policy status. For purposes of applying the medicaid rules relating to Kansas' long-term care partnership program, the addition of a rider, endorsement or change in schedule page for a policy may be treated as giving rise to an exchange.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 15, preceding “K.S.A.” by inserting “On and after January 1, 2010.”;

On page 7, following line 39, by inserting the following:

“Sec. 27. On and after July 1, 2009, K.S.A. 2008 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2008 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2008 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

- (A) Is in the public interest;
- (B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;
- (C) would not reveal the identity of any confidential source or undercover agent;
- (D) would not reveal confidential investigative techniques or procedures not known to the general public;
- (E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

- (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;
- or
- (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.
- (23) Library patron and circulation records which pertain to identifiable individuals.
- (24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.
- (25) Records which represent and constitute the work product of an attorney.
- (26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.
- (27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.
- (28) Sealed bids and related documents, until a bid is accepted or all bids rejected.
- (29) Correctional records pertaining to an identifiable inmate or release, except that:
 - (A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;
 - (B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;
 - (C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq. and amendments thereto, shall not be disclosed; and
 - (D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.
- (30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.
- (31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.
- (32) Engineering and architectural estimates made by or for any public agency relative to public improvements.
- (33) Financial information submitted by contractors in qualification statements to any public agency.
- (34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.
- (35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

- (36) Information which would reveal the precise location of an archeological site.
- (37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.
- (38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.
- (39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.
- (40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.
- (41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.
- (42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.
- (43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.
- (44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.
- (45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.
- (46) Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214). Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.
- (47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse.
- (48) *Policy information provided by an insurance carrier in accordance with subsection (h)(1) of K.S.A. 44-532, and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.*
- (b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or

officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

New Sec. 28. (a) An individual who qualifies as an assistance eligible individual on or after March 1, 2009, under the American recovery and reinvestment act of 2009 may elect special assisted continuation of coverage as provided in the American recovery and reinvestment act of 2009.

(b) An individual who does not have continuation of coverage as described in K.S.A. 40-2209(i), and amendments thereto, in effect on March 1, 2009, but who would be an assistance eligible individual under the American recovery and reinvestment act of 2009 if such assistance had been in effect, may elect special assisted continuation of coverage pursuant to this subsection.

(c) The employer of the terminated employee shall provide the additional notice of the right to elect coverage pursuant to this section as required by the American recovery and reinvestment act of 2009.

(d) Election as required by the American recovery and reinvestment act of 2009 shall be made by an assistance eligible individual to the insurer.

(e) Special assisted continuation of coverage elected pursuant to this section shall commence with the first period of assisted continuation of coverage beginning on or after the date of the enactment of the American recovery and reinvestment act of 2009 and shall extend for the period of special assisted continuation of coverage allowed by the American recovery and reinvestment act of 2009 and amendments thereto.

(f) With respect to individuals who elect special assisted continuation coverage pursuant to this section, the 18 months of continuation coverage required by K.S.A. 40-2209(i), and amendments thereto, shall commence on the date an individual qualifies for continuation of coverage and shall terminate 18 months thereafter with the period of special assisted continuation coverage included therein.

(g) With respect to an individual who elects special assisted coverage pursuant to this section, any preexisting conditions arising between the date of the qualifying event and ending with the first period of coverage beginning on or after the date of the enactment of the American recovery and reinvestment act of 2009 shall be disregarded for the purpose of determining the 63-day period referred to in K.S.A. 40-2209(a)(8)(L), and amendments thereto.

(h) An individual applying for special assisted continuation coverage must provide the individual's social security number to the insurer.

(i) Premiums for special assistance continuation of coverage shall be paid by the assistance eligible individual to the insurance carrier.

(j) An individual eligible for assisted continuation of coverage who elects such coverage shall be entitled to the premium subsidy provided in the American recovery and reinvestment act of 2009, and amendments thereto, so long as they meet the requirements for special assisted continuation coverage pursuant to the terms of the American recovery and reinvestment act of 2009.

(k) The insurer shall pay the subsidy required by the American recovery and reinvestment act of 2009, and amendments thereto. Such insurer shall have the right to reimbursement for the subsidy as set forth in the American recovery and reinvestment act of 2009.

(l) In all cases in which an individual described above pays the premium for continuation of coverage, the individual shall have the right to continuation of coverage for 18 months as set forth in K.S.A. 40-2209(i), and amendments thereto, with any period of premium subsidy counted toward that individual's period of continuation of coverage. In no case, shall an individual be entitled to more than 18 months of continuing of coverage or more than nine months of special assisted continuing coverage.

(m) The provisions of this section shall expire on January 1, 2011.

Sec. 29. On and after July 1, 2009, K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a, 40-2c01, 40-2c01a, 40-2136 and 45-221 are hereby repealed.”;

And by renumbering sections accordingly;

Also on page 7, in line 40, preceding “K.S.A.” by inserting “On and after January 1, 2010.”; by striking all in lines 41 and 42 and inserting the following:

“Sec. 31. This act shall take effect and be in force from and after its publication in the Kansas register.”;

On page 1, in the title, in line 10, by striking all following “the”; in line 11, by striking all preceding the semicolon and inserting “regulation thereof”; also in line 11, by striking all following “amending”; in line 12, by striking all preceding the period and inserting “K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a, 40-2c01, 40-2136, 40-3008 and 45-221 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 40-2c01a”;

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

RUTH TEICHMAN
KARIN BROWNLEE
CHRIS STEINEGER
Conferees on part of Senate

CLARK SHULTZ
VIRGIL PECK, JR.
NILE DILLMORE
Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on **HB 2052**.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Bruce, Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2072**, submits the following report:

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

On page 1, after line 14, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 74-4914 is hereby amended to read as follows: 74-4914.

(1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b and amendments thereto and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) On or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, *and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, with such retirant*, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one such calendar year, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, *and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation*, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer *who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity*

shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. *Any participating employer who contracts services with any such third-party entity to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this subsection which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection.* Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official on and after the term of office of such other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in subsection (b) of K.S.A. 76-12a01 or subsection (f) of K.S.A. 38-2302, and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.”;

And by renumbering the remaining sections accordingly;

On page 4, in line 21, after “Supp.” by inserting “74-4914 and”; also in line 21, by striking “is” and inserting “are”; in line 23, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 10, by striking “po-”; in line 11, by striking all before “retirement” and inserting “public employees”; also in line 11, after “system” by inserting “and systems thereunder; employment after retirement, retirants employed by third-party

entities"; in line 12, after "Supp." by inserting "74-4914 and"; also in line 12, by striking "section" and inserting "sections";

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

JOHN VRATIL
CAROLYN MCGINN
LAURA KELLY
Conferees on part of Senate

SHARON SCHWARTZ
CLARK SHULTZ
GERALDINE FLAHARTY
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **S Sub for HB 2072**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2162**, submits the following report:

The Senate recedes from all of its amendments to the bill;

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

JIM BARNETT
VICKI SCHMIDT
LAURA KELLY
Conferees on part of Senate

BRENDA LANDWEHR
DAVID CRUM
GERALDINE FLAHARTY
Conferees on part of House

Senator Barnett moved the Senate adopt the Conference Committee Report on **HB 2162**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **Senate Substitute for Substitute HB 2014**.

The House not adopts the conference committee report on **HB 2158**, requests a conference and appoints Representatives Huebert, Schwab and Sawyer as second conferees on the part of the House.

The House concurs in Senate amendments to **HB 2324** and requests return of the bill.

The House concurs in Senate amendments to **HB 2155**, and requests return of the bill. Announcing passage of **HB 2374, HB 2388; HCR 5020, HCR 5021**.

Also, passage of **SB 218**, as amended by **House Substitute for SB 218**.

The House adopts the conference committee report on **SB 160**.

The House not adopts the conference committee report on **SB 171**, requests a conference and appoints Representatives Huebert, Schwab and Sawyer as third conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2374, HB 2388; HCR 5020, HCR 5021 were thereupon introduced and read by title.

REFERENCE OF HOUSE BILLS

The President referred **HCR 5020, HCR 5021** to the Committee of the Whole.

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 Apple in the chair.

On motion of Senator D. Schmidt, **HCR 5020** was advanced on the calendar under the heading of General Orders to the first order of business.

On motion of Senator D. Schmidt, **HCR 5021** was advanced on the calendar under the heading of General Orders to the first order of business.

On motion of Senator Apple the following report was adopted:

HCR 5020, HCR 5021 be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **HCR 5020, HCR 5021** were advanced to Final Action and roll call.

HCR 5020, A concurrent resolution designating the fourth Saturday in July as National Day of the Cowboy.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The resolution was adopted.

HCR 5021, A concurrent resolution recognizing the contributions of the Kansas Cowboy Hall of Fame.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Brungardt, Wysong.

The resolution was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 160**, submits the following report:

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

On page 2, by striking all in lines 8 through 15; in line 16, by striking “(d)” and inserting “(c)”; in line 17, by striking “section 6 of the”; by striking all in line 18; in line 19, by striking all before “and” and inserting “the federal fair labor standards act (29 U.S.C.A. 201 et seq.)”; by striking all in lines 21 through 29;

And by renumbering sections accordingly;

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

STEVEN R. BRUNK

JOHN C. GRANCE

LOUIS E. RUIZ

Conferees on part of House

DAVID WYSONG

JULIA LYNN

TOM HOLLAND

Conferees on part of Senate

Senator Lynn moved the Senate adopt the Conference Committee Report on **SB 160**.

On roll call, the vote was: Yeas 33, Nays 5, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Bruce, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Huelskamp, Marshall, Pilcher-Cook, Pyle.

Absent or Not Voting: Brungardt, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 160**. We are not raising the minimum wage; the federal government has already done this. The few exceptions in Kansas which might have a lower wage are likely due to the current federal exceptions to the minimum wage.

The average Kansas wage in 2007 was \$17.55/hr. Our vote today does not increase this wage. The workers, employers and free market forces of Kansas increase wages.—KARIN BROWNLEE

Senator Masterson requests the record to show he concurs with the “Explanation of Vote” offered by Senator Brownlee on **SB 160**.

MR. PRESIDENT: As a co-sponsor of **SB 160** I’d like to thank Senators Francisco and Kelsey for their hard work.

I vote yes on **SB 160** with great pride. For too long, we have failed to protect the people at the bottom of the pyramid. Now we have assured them a living wage. I am especially proud that we worked on this together and that it has broad support. Any legislation that passes here in this building passes with the votes of bipartisanship, so I think we can all take credit for raising the minimum wage in the state of Kansas and bringing ourselves into line with adjoining states.—OLETHA FAUST-GOUDEAU

MR. PRESIDENT: I vote yes on **Senate Bill 160**, the Kansas Minimum Wage Bill. Led by bipartisan efforts in the Senate, **SB 160** will increase Kansas’ dismal \$2.65 per hour minimum wage to \$7.25 per hour on January 1st, 2010.

Kansas’ minimum wage is currently the lowest in the nation—so low that it allows employers to legally pay a rate that keeps people in poverty. According to the Department of Labor, there were at least 17,000 Kansas workers last year who earned the state minimum wage. Many of these Kansans are working multiple jobs in a tough economy just to provide food and shelter for their families.

Kansas' minimum hourly wage reflects how our state values the work efforts of its citizens. After remaining stagnant for more than 20 years, this wage increase will show the nation that we value Kansas workers enough to provide them with a liveable wage.

Senate Bill 160 is a significant victory for hardworking Kansans across our great state.—
ANTHONY HENSLEY

Senators Holland, Kelly and Kultala request the record to show they concur with the “Explanation of Vote” offered by Senator Hensley on **Senate Bill 160**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Taddiken moved the Senate concur in house amendments to **H Sub for SB 218**. In accordance with Rule 26, Senator Hensley made a motion to postpone to day certain, Wednesday, April 29, 2009. The motion failed.

Citing Rule 29, and joined by the required five senators, Senator Vratil moved the previous question. The motion carried.

H Sub for SB 218, An act concerning abortion; regarding restrictions on late term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6709, as amended by section 1 of 2009 House Substitute for Senate Bill No. 238 and 65-6721 and K.S.A. 2008 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713.

On roll call, the vote was: Yeas 25, Nays 11, Present and Passing 2, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Taddiken, Umbarger, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Vratil.

Present and Passing: Emler, Teichman.

Absent or Not Voting: Brungardt, Wysong.

The Senate concurred.

EXPLANATION OF VOTE

MR. PRESIDENT: I believe **House Substitute for SB 218** is a flawed product that may have serious issues which will lead to protracted litigation. We could and should have produced a better product. Late term abortion is an abomination that we should not tolerate. I hope a constitutional challenge to this bill will not abrogate much needed legislation.—
JAY SCOTT EMLER

MR. PRESIDENT: I vote “No” on **H Sub for SB 218**. Whether “pro-choice” or “pro-life,” you can not respect the process of leaving completely unanswered questions to such sweeping changes in medical definitions and to our current laws. Where is this Senate’s accountability to reason? Are we, as a majority, such a group of ideologists that we toss study and research to hurriedness and to haphazardness? **H Sub for SB 218** is only an effort to add a chilling effect towards a woman’s constitutional right to choose during a crisis pregnancy. It is a flawed production as the asked-but-unanswered-questions illuminate. Explaining how sausage is made to my constituents is never easy. Neither will the attempt to explain this new “law.” Again, I vote “NO” on **H Sub for SB 218**.—DAVID HALEY

MR. PRESIDENT: It is shameful, that certain late-term abortionists continue to flaunt our late-term abortion laws. This bill is very simple—it provides basic medical facts to women and holds these abortionists accountable. To do otherwise, would be a disservice to these women and their families and to the infinite and sacred value of human life.—TIM HUELSKAMP

Senators Brownlee, Lynn, Ostmeyer and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator Huelskamp on **H Sub for SB 218**.

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **HB 2052**.

ORIGINAL MOTION

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **SB 171**.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as third conferees on the part of the Senate.

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **HB 2158**.

The President appointed Senators V. Schmidt, Apple and Faust-Goudeau as second conferees on the part of the Senate.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, April 29, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

**CORRECTION OF THE JOURNAL**

Correct the Journal of the Senate on Thursday, April 2, 2009, on page 651, following the "Explanation of Vote" by Senator Francisco to read as follows:

Senators Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **HB 2121**.

Correct the Journal of the Senate on Thursday, April 2, 2009, on page 681, following the "Explanation of Vote" by Senator Kultala to read as follows:

Senators Haley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Kultala on **HB 2172**.

Correct the Journal of the Senate on Thursday, April 2, 2009, on page 681, following the "Explanation of Vote" by Senator Lee to read as follows:

Senators Francisco, Haley, Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Lee on **HB 2172**.

Correct the Journal of the Senate on Thursday, April 2, 2009, on page 681, following the "Explanation of Vote" by Senator D. Schmidt to read as follows:

Senators Abrams, Brownlee, Lynn, McGinn, Ostmeyer, Petersen and Teichman request the record to show they concur with the "Explanation of Vote" offered by Senator D. Schmidt on **HB 2172**.

Correct the Journal of the Senate on Thursday, April 2, 2009, on page 681, following the "Explanation of Vote" by Senator Vratil to read as follows:

Senators Francisco, Haley, Hensley, Kelly and Owens request the record to show they concur with the "Explanation of Vote" offered by Senator Vratil on **HB 2172**.