

# Journal of the Senate

SIXTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, May 7, 2009—9:00 a.m.

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

Heavenly Father,

On this National Day of Prayer we recall the instructions You gave King Solomon for Israel in the 10th century B.C.

“If My people, who are called by my name, will humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven and will forgive their sin and will heal their land.”

Four conditions for forgiveness  
For people called Your Name:  
Humility, Prayer, Diligence,  
Behavior with no shame:

If we obey Your instructions,  
You will hear our appeal;  
Forgiveness will be ours  
And our nation shall be healed.

And for that we thank You in the Name of Jesus Christ,  
AMEN

The Pledge of Allegiance was led by President Stephen Morris.

## INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1889—

A RESOLUTION congratulating the Johnson County Community College men’s basketball team.

WHEREAS, The Johnson County Community College men’s basketball team captured the 2009 NJCAA Division II National Championship by defeating Kirkwood Community College by a score of 63-49 at Mary Miller Gymnasium in Danville, Illinois; and

WHEREAS, This national championship is the second title for the JCCC Cavaliers, having also won the championship in 2001; and

WHEREAS, The Cavaliers have been expertly led throughout the season by 2009 National Coach of the Year, Head Coach Mike Jeffers; and

WHEREAS, The Cavaliers focused on defense to key their championship run, holding their opponents to an average of 55.7 points per game and a shooting percentage of .378 percent; and

WHEREAS, The Cavaliers were led in scoring by tournament Most Valuable Player Nafis Ricks, who led the Cavaliers with 21 points in the final against Kirkwood and finished the tournament averaging 16.3 points; and

WHEREAS, In addition to Nafis Ricks, Kenny Moore and Jared Henry were selected to the all-tournament team; and

WHEREAS, Despite injuring his hand in the opening round of the tournament, Kenny Moore refused to quit and continued to play at a high level, saying that “Nothing was going to stop me. I had never won a championship before I came to JCCC. This is the best move in my life coming to JCCC”; and

WHEREAS, The gutsy performance by Kenny Moore, and every player’s focus on team defense, indicates the Cavaliers’ level of commitment and determination to succeed: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Johnson County Community College men’s basketball team and Head Coach Mike Jeffers for winning the 2009 NJCAA National Championship and that we wish them continued success; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator David Wysong.

On emergency motion of Senator Wysong **SR 1889** was adopted unanimously.

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

SENATE RESOLUTION No. 1890—

A RESOLUTION congratulating the Johnson County Community College women’s half-marathon team.

WHEREAS, On November 22, 2008, the Johnson County Community College women captured the National Junior College Athletic Association (NJCAA) Half-Marathon National Championship; and

WHEREAS, On the roads and trails that wove through Shawnee Mission Park and Mill Creek Streamway Park, the JCCC women’s team battled wind-chill temperatures in the high teens and a field of 185 runners representing 27 teams to capture the women’s championship; and

WHEREAS, In winning this year’s half-marathon championship, the Johnson County women’s team won their fourth team title in the six-year history of the event; and

WHEREAS, Johnson County had two of the top six runners in the final standings with sophomore Temer Yimer placing third with a time of 1:25:08 and sophomore Francis Gipson placing fourth with a time of 1:27:10; and

WHEREAS, The history of success for the Johnson County Community College women’s team is particularly impressive considering that training and conditioning for long-distance running competitions like a half-marathon is grueling, requiring incredible levels of dedication and hard-work: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Johnson County Community College women’s half-marathon team for winning its fourth NJCAA Half-Marathon National Championship in six years and that we wish them all continued success; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator David Wysong.

On emergency motion of Senator Wysong **SR 1890** was adopted unanimously.

Senator Wysong introduced the Johnson County Community College Women’s Half Marathon Team: Francis Gipson, Temer Yimer, Heather Kochie, Emily Crews, Sarah Stark, Kayla Harris, Haley Snow, Roxanna Cabrera and Renae Dupree. Also introduced were Carl Heinrich, Director of Athletics and Coaches Mike Bloemker and Brian Batliner.

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

## SENATE RESOLUTION No. 1891—

A RESOLUTION commemorating the 40th anniversary of the founding of Johnson County Community College.

WHEREAS, In 1969, voters approved a \$12.9 million bond issue to buy and build a permanent campus on the present site of Johnson County Community College; and

WHEREAS, Later in 1969, the college was granted correspondent status by the North Central Association of Colleges and Schools and started classes on September 4 at the temporary campus headquartered at Merriam Elementary School. On September 11, the college announced it could not accept any more students because all classes were filled with an enrollment of 1,380 students. In 1970, construction began on the new campus at College Boulevard and Quivira Road; and

WHEREAS, In 1973, the college was fully accredited by the Kansas State Department of Education and by the North Central Association of Colleges and Schools in 1975. Over the years, JCCC has been granted full accreditation at each review and is now accredited through 2011; and

WHEREAS, In 1988, JCCC entered into a unique agreement with Burlington Northern Santa Fe Railroad and built the Industrial Technical Center on campus to house BNSF's national training programs; and

WHEREAS, Today, more than 19,000 credit students and 15,000 continuing education students enroll at JCCC each semester. The campus now holds 20 buildings with full-time faculty and staff of more than 900 and another 1,600 employees working part-time. JCCC offers a full range of undergraduate credit courses consistent with the first two years of most college curricula and has more than 50 one and two-year career and certificate programs to prepare students to enter the job market; and

WHEREAS, Johnson County Community College has become the state's third-largest institution of higher education and remains a board member of the prestigious League for Innovation in the Community College; and

WHEREAS, Throughout the 40 years of JCCC's service to Kansas, it has made a major and long-lasting impact on the education of Kansans and has been a great benefit to the Kansas work force: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we commemorate the 40th anniversary of the founding of Johnson County Community College and that we recognize the many contributions it has made to Kansas; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator David Wysong.

On emergency motion of Senator Wysong **SR 1891** was adopted unanimously.

Senator Wysong introduced Terry Calaway, President of Johnson County Community College, upon the 40th anniversary of the college.

**REPORT ON ENROLLED BILLS**

**SR 1886, SR 1887, SR 1888, SR 1889, SR 1890, SR 1891** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 7, 2009.

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

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**AFTERNOON SESSION**

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

**MESSAGE FROM THE HOUSE**

The House not adopts the conference committee report on **Senate Substitute for HB 2072**, requests a conference and appoints Representatives Schwartz, Shultz and Flaharty as second conferees on the part of the House.

The House adopted the conference committee report to agree to disagree on **HB 2060** and has appointed Representatives Colloton, Patton and McCray-Miller as fourth conferees on the part of the House.

The House adopts the conference committee report on **HB 2267**.

#### ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 171; HB 2060, HB 2158, HB 2162.**

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171**, submits the following report:

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

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

By striking all of pages 2 through 5 and inserting in lieu thereof the following:

“Section 1. K.S.A. 25-1218 is hereby amended to read as follows: 25-1218. (a) The secretary of state shall prescribe the form of official federal services absentee ballots. Such ballots shall provide for voting for all officers; ~~other than precinct committee man and committeewoman, for whom the voter would otherwise be entitled to vote and shall also provide for voting on any proposed amendment to the constitution of the state of Kansas and any other and on any proposition or question which is to be submitted to a vote of the qualified electors of the state at large for which the voter would otherwise be entitled to vote.~~ Such ballots shall be uniform in size and in style of type, and the type and paper shall conform generally to that used for the regular official ballots. The respective county election officers shall cause to be prepared and printed such numbers of ballots as may be appropriate for carrying out the provisions of this act.

(b) Such ballots shall contain the title of each office to be voted for, followed by the name and address of each nominated candidate for each office, the party or independent body nominating such candidate, a designation of the political subdivision to be represented, and a blank space for writing in the name of any other person for whom the voter desires to vote; ~~except that.~~ *Except for precinct committee men and committee women* no such blank space shall be printed on the primary ballot following the title of any office for which there is a candidate.

Sec. 2. K.S.A. 2008 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) Any sick, physically disabled or illiterate voter who is unable to apply for or mark or transmit an advance voting ballot, may request assistance by a person who has signed a statement required by subsection (d) in applying for or marking an advance voting ballot.

(c) Any voted ballot may be transmitted to the county election officer by the voter or by another person ~~upon request of~~ *designated in writing by* the voter. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(d) The county election officer shall allow a person to assist a sick, physically disabled or illiterate voter in applying for or marking an application or advance voting ballot, provided

a written statement is signed by the person who renders assistance to the sick, physically disabled or illiterate voter and submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the sick, physically disabled or illiterate voter and that the person providing assistance has completed the application or marked the ballot as instructed by the sick, physically disabled or illiterate voter.

(e) Any person assisting a sick, physically disabled or illiterate voter in applying for or marking an advance voting ballot who knowingly and willfully fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9 nonperson felony.

Sec. 3. K.S.A. 2008 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) *Except as otherwise provided by law, no person other than the voter shall sign an application for an advance voting ballot for such voter.*

~~(c)~~ (d) Except as otherwise provided by law, no person other than the voter, shall mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

~~(d)~~ (e) No person, unless authorized by K.S.A. 25-1122 or K.S.A. 25-1124, and amendments thereto, shall intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

~~(e)~~ (f) No person shall willfully and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot, or set of advance voting ballots if the voter is entitled to vote more than one kind of advance voting ballot at a particular election, or in a declaration form on an advance voting ballot envelope.

~~(f)~~ ~~Nothing in this section shall be construed to prohibit any person from mailing, carrying or otherwise conveying advance voting ballots or sets of advance voting ballots to the county election officer upon request of advance voting voters.~~

(g) *A voter may return such voter's advance voting ballot to the county election office by personal delivery or by mail. Upon written designation showing the date and signature by the voter on the ballot envelope, a person other than the voter may be designated to return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement and date such statement at the time the ballot is taken from the voter and which statement appears on the ballot envelope that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter. Any person designated by a voter to deliver such voter's advance voting ballot shall mail or deliver the ballot and the designation and statement required by this section to the county election office. Such delivery shall occur within two business days after receiving the ballot from the voter but not later than the close of polls on election day.*

~~(g)~~ (h) Violation of any provision of this section is a ~~class C misdemeanor~~ *severity level 9 nonperson felony. No person may be found to have violated subsection (g) unless there is evidence the violation was knowingly and willfully done.*

Sec. 4. K.S.A. 25-205 is hereby amended to read as follows: 25-205. (a) Except as otherwise provided in this section, the names of candidates for national, state, county and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of the following methods and none other: (1) They shall have had filed in their behalf, not later than 12:00 noon, ~~June 10~~ *June 1*, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00

noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act, except that in 1998, candidates for judge or district magistrate judge of the district court for positions created in 1998 in those judicial districts that have not approved the proposition of nonpartisan selection of judges of the district court shall have filed in their behalf, not later than 12:00 noon, July 1, 1998, nomination petitions, as provided for in this act; or (2) they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee required by law. Such declaration shall be prescribed by the secretary of state.

(b) Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the county of \_\_\_\_\_, and state of Kansas, and a duly registered voter, and a member of \_\_\_\_\_ party, hereby nominate \_\_\_\_\_, who resides in the township of \_\_\_\_\_ (or at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_), in the county of \_\_\_\_\_ and state of Kansas, as a candidate for the office of (here specify the office) \_\_\_\_\_, to be voted for at the primary election to be held on the first Tuesday in August in \_\_\_\_\_, as representing the principles of such party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for such office at such primary election.

(HEADING)

Name of Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
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All nomination petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(c) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(d) All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit described in this paragraph of a petition circulator who is a resident of the state of Kansas and has the qualifications of an elector in the state of Kansas or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator or the candidate, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon.

(e) Except as otherwise provided in subsection (g), nomination petitions shall be signed:

(1) If for a state officer elected on a statewide basis or for the office of United States senator, by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the state as compiled by the office of the secretary of state;

(2) If for a state or national officer elected on less than a statewide basis, by voters equal in number to not less than 2% of the total of the current voter registration of the party designated in such district as compiled by the office of the secretary of state, except that for the office of district magistrate judge, by not less than 2% of the total of the current voter registration of the party designated in the county in which such office is to be filled as certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto;

(3) If for a county office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such district or county as compiled

by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto; and

(4) If for a township office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such township as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto.

(f) Subject to the requirements of K.S.A. 25-202, and amendments thereto, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party and, upon receipt of such nomination petitions, the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

(g) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before May ~~10~~ 1, nomination petitions for nomination to such offices shall be signed by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the district as compiled by the office of the secretary of state.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after May ~~11~~ 2, nomination petitions for nomination to the following offices shall be signed by registered voters of the party designated in the district equal in number to not less than the following:

- (A) For the office of representative in the United States congress ..... 1,000 registered voters;
- (B) for the office of member of the state board of education ..... 300 registered voters;
- (C) for the office of state senator ..... 75 registered voters; and
- (D) for the office of state representative ..... 25 registered voters.

(h) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before June ~~10~~ 1, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on June ~~24~~ 15, or if such date falls on a Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or holiday.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after June ~~11~~ 2, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on July ~~12~~ 3, or if such date falls on a Saturday, Sunday or holiday, then before 12:00 noon of the next day that is not a Saturday, Sunday or holiday.

Sec. 5. K.S.A. 25-4004 is hereby amended to read as follows: 25-4004. The provisions of K.S.A. 25-205, and amendments thereto, shall not apply to the offices of governor and lieutenant governor. The names of candidates for governor and lieutenant governor shall be printed upon the official primary ballot when each pair thereof shall have qualified to become candidates in one or the other of the following methods and none other: *First*, they shall have had filed in their behalf, not later than ~~twelve o'clock~~ 12:00 noon, ~~June 10~~ June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a legal holiday, then before twelve o'clock noon the following business day, nomination papers, commonly called nomination petitions, as provided for in K.S.A. 25-4005, and amendments thereto; or, *second*, they shall have filed not later than the time for filing nomination papers, as above provided, with the secretary of state, as hereinafter prescribed, a declaration of intention to become candidates, accompanied by a fee as provided in K.S.A. 25-4006, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application shall be valid for any election at which such voter otherwise is entitled to vote between the date of the application through the next two regularly scheduled general elections for national or state office.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by mail, the voter may apply for registration and an absentee ballot by facsimile or *electronic mail*. The voter may also request that the county election officer transmit to such voter by facsimile or *electronic mail* a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile or *electronic mail* such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile or *electronic mail*, the transmittal shall contain the following statement: "I understand that by faxing or *electronically mailing* my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The county election officer and such officer's staff shall take the steps necessary to keep the voted ballots received by facsimile or *electronic mail* as confidential as practicable.

Sec. 7. K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 10, by striking all after “concerning”; by striking all in line 11; in line 12, by striking all before the period and inserting “elections; pertaining to efficiency in handling ballots from military personnel and other official services absentee voters; pertaining to advance voting ballots; pertaining to candidate filing deadlines; amending K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 and repealing the existing sections.”;

And your committee on conference recommends the adoption of this report on **SB 171**.

STEVE HUEBERT  
SCOTT SCHWAB  
*Conferees on part of House*

VICKI SCHMIDT  
PAT APPLE  
*Conferees on part of Senate*

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on **SB 171**.

On roll call, the vote was: Yeas 32, Nays 7, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Lee.

Absent or Not Voting: Haley.

The Conference Committee report was adopted.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2060**, submits the following report:



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

On page 1, following line 19, by inserting the following:

“New Section 1. (a) There is hereby created the joint committee on parole board oversight within the legislative branch of state government.

(b) The joint committee shall be composed of six members as follows: the chairperson and the ranking minority member of the standing senate committee on judiciary; the chairperson and the ranking minority member of the standing house committee on corrections and juvenile justice; one member appointed by the chairperson of the standing senate committee on judiciary; and one member appointed by the chairperson of the standing house committee on corrections and juvenile justice. The chairperson of the standing house committee on corrections and juvenile justice shall be the chairperson of the joint committee.

(c) Documents, records and reports from the parole board concerning factors and rationale used to determine the granting or denial of parole, as specified in subsection (d), shall be available to members of the joint committee, 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. Documents, records and reports received by the joint committee are confidential and shall not be further disclosed. Such documents, records and reports received shall have information redacted which identifies any person or location, including, but not limited to, a city or county, except this provision shall not apply to the name of the inmate whose records are being reviewed. 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.

(d) (1) The parole board shall provide documents, records and reports to the joint committee related to the following:

(A) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated; and

(B) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was 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, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated.

(2) The parole board shall also provide to the joint committee a summary statement of the factors and rationale used to determine the granting or denial of parole in each such case and any correspondence received by the parole board relating to such grant or denial.

(3) The secretary of corrections shall select parole board cases representative of a variety of circumstances including, but not limited to: Inmates with different custody levels at the time of such inmates’ parole hearings; inmates with different types of offenses or conduct that resulted in such inmates’ incarceration; and inmates incarcerated in different state correctional facilities.

(e) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee to the extent that the same do not conflict with the specific provisions of this section applicable to the joint committee.

(f) Members of the joint committee shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the joint committee.

(g) The staff of the office of revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be

requested by the joint committee and to the extent authorized by the legislative coordinating council.

(h) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(i) The joint committee shall prepare and submit a final report and recommendations to the legislature on or before January 1, 2010.

(j) The provisions of this section shall expire on January 1, 2010.

Sec. 2. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3). ~~The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle.~~

(2) *Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).*

(3) *It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.*

(b) ~~Any driver who violates the provisions of subsection (a) of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or~~

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).

(c) (1) ~~Every person convicted of violating Violation of subsection (a), upon a first conviction, shall be guilty of is a class B nonperson misdemeanor.~~

(2) ~~Every person convicted of violating Violation of subsection (a), upon a second conviction of such subsection, shall be guilty of is a class A nonperson misdemeanor.~~

(3) ~~Every person convicted of violating Violation of subsection (a), upon a third or subsequent conviction of such subsection, shall be guilty of is a severity level 9, person felony.~~

(4) ~~Every person convicted of violating Violation of subsection (b) shall be guilty of is a severity level 9, person felony.~~

(d) ~~The signal given by the police officer may be by hand, voice, emergency light or siren:~~

(1) ~~If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or~~

(2) ~~if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.~~

~~(e)~~ (e) For the purpose of this section:

(1) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or

*siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.*

(f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

Sec. 3. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation, *lock down or disruption in regular, ongoing activities* of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation, *lock down or disruption in regular, ongoing activities*;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) A criminal threat is a severity level 9, person felony.

(c) As used in this section, "threat" includes any statement that one has committed any action described by subsection (a)(1) or (2).

Sec. 4. K.S.A. 2008 Supp. 21-3419a is hereby amended to read as follows: 21-3419a.

(a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, *locked down or disrupted as to regular, ongoing activities* as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 5, person felony.;

And by renumbering sections accordingly;

On page 2, in line 7, by striking "attending the"; in line 8, by striking "conduct" and inserting "attendance";

On page 3, in line 1, by striking all preceding "of" and inserting ", unlawful attendance"; following line 39, by inserting the following:

"Sec. 8. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension

or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10); or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. ~~2007~~ 2008 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be 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.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of ~~K.S.A. 65-4160 or 65-4162~~ *section 6 of 2009 House Bill No. 2236*, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. ~~2007~~ *2008* Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) *Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance*

or controlled substance analog in violation of section 6 of 2009 House Bill No. 2236, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

Sec. 9. K.S.A. 21-4611 is hereby amended to read as follows: 21-4611. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation, suspension of sentence or assignment to community correc-

tions may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The district court having jurisdiction of the offender may parole any misdemeanor sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

- (1) For nondrug crimes the recommended duration of probations is:
  - (A) Thirty-six months for crimes in crime severity levels 1 through 5; and
  - (B) 24 months for crimes in crime severity levels 6 and 7.
- (2) For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.
- (3) *Except as otherwise provided*, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, ~~or assignment to a community correctional services program as provided under K.S.A. 75-5291 et seq., and amendments thereto~~, of up to 12 months in length.

(4) In felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes ~~and~~, severity level 3 on the sentencing guidelines grid for drug crimes *and felony cases sentenced pursuant to K.S.A. 21-4729, and amendments thereto*, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length.

(5) If the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal.

(6) Except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time.

(7) If the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid.

(8) The court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) The provisions of subsection (c), as amended by this act, shall be applied retroactively. The sentencing court shall direct that a review of all persons serving a nonprison sanction for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes be conducted. On or before September 1, 2000, the duration of such person's probation shall be modified in conformity with the provisions of subsection (c).";

And by renumbering the remaining sections accordingly;

On page 7, in line 35, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236"; in line 40, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236";



On page 9, in line 39, preceding the period by inserting “and shall be served consecutively to any other term or terms of imprisonment imposed”;

On page 10, in line 2, by striking all after “under” and inserting “sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto.”;

On page 12, in line 2, by striking all after “of” where it appears for the last time and inserting “sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto.”;

On page 13, in line 3, after “65-4159” by inserting “, prior to its repeal, or section 3 of 2009 House Bill No. 2236.”; in line 15, before “and” by inserting “prior to such section’s repeal, or section 6 of 2009 House Bill No. 2236.”; in line 17, by striking “Such” and inserting “Subject to appropriations therefor, such”; in line 20, following the period by inserting “If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary’s determination regarding the availability of treatment resources shall not be subject to review.”; by striking all in lines 41 through 43;

By striking all on page 14;

On page 15, by striking all in lines 1 through 15 and inserting the following:

“(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to:

(A) Except as provided in subparagraph (1)(B), an additional 6 months’ imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months’ imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of section 6 or 13 of 2009 House Bill No. 2236, and amendments thereto.

Sec. 12. K.S.A. 2008 Supp. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant’s version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale.

(5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.

(6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.

(7) If the proposed grid block classification is a grid block which presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to

the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No. 2236*, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No. 2236*, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(c) The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to the parties, the sentencing judge, the department of corrections, and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220 and amendments thereto to the warden of the state correctional institution to which the defendant is conveyed.

(d) The criminal history worksheet will not substitute as a presentence report.

(e) The presentence report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.

(f) *Except as provided in K.S.A. 21-4715, and amendments thereto*, the court can take judicial notice in a subsequent felony proceeding of an earlier presentence report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

Sec. 13. K.S.A. 21-4715 is hereby amended to read as follows: 21-4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of producing further evidence to satisfy its burden of proof regarding any disputed part, or parts, of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence. *If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.*

Sec. 14. 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 section 1, 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) (A) *Except as otherwise provided by law, 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.*
- (B) *Notwithstanding any other provision of law to the contrary, any summary statement 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. 15. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a)
- (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the

criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) on and after ~~July 1, 2010~~ *January 1, 2011*, for offenders who are expected to be subject to supervision in Kansas, who are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, and amendments thereto.

(3) ~~(A)~~ Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before ~~July 1, 2010~~ *January 1, 2011*, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on ~~July 1, 2010~~ *January 1, 2011*.

~~(B) On or before the first day of the 2009 legislative session, the Kansas sentencing commission shall submit a written report on such offender program to the senate standing committee on judiciary and the house of representatives standing committee on judiciary.~~

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of

the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
  - (B) effectiveness and enhancement of existing interventions;
  - (C) identification of new interventions; and
  - (D) statewide performance indicators.
- (5) The committee's report concerning enhanced or new interventions shall address:
- (A) Goals and measurable objectives;
  - (B) projected costs;
  - (C) the impact on public safety; and
  - (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 16. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, 21-4714, 21-4714, as amended by section 37 of 2009 House Bill No. 2236, 75-4319 and 75-5291 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: “AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714, 75-4319 and 75-5291 and repealing the existing sections; also repealing K.S.A. 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, and K.S.A. 2008 Supp. 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, and 21-4714, as amended by section 37 of 2009 House Bill No. 2236.”;

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

THOMAS C. OWENS  
DEREK SCHMIDT  
LAURA KELLY

*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 **HB 2060**. On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, 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, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Taddiken.

Absent or Not Voting: Haley.

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2158**, submits the following report:

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

On page 3, by striking all in line 17 and inserting in lieu thereof the following:

“New Sec. 2. (a) The board of county commissioners of Sherman county may provide for the election of county commissioners in accordance with this section. The procedure for the election of county commissioners shall be adopted by resolution in accordance with the provisions of K.S.A. 19-204 and amendments thereto. The resolution shall be in substantial compliance with the provisions of subsection (b). Any county commissioner whose term has not expired by the time the resolution has been adopted by the voters of Sherman county, Kansas, shall continue to serve until a successor county commissioner is elected.

(b) (1) Each county commissioner shall run at large. Each candidate for county commissioner may reside anywhere within Sherman county, Kansas.

(2) All electors who are otherwise qualified according to law and who reside in Sherman county, Kansas, may vote in both the primary and general election for each county commissioner being elected. Each candidate shall file for the office of county commissioner in the manner provided by law. Elections for the office of county commissioner shall be conducted in accordance with the provisions of article 25 of the Kansas Statutes Annotated, and amendments thereto, except as provided in this section and amendments thereto.

(3) (A) Primary elections under this section shall be conducted on a partisan basis. In the primary election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. For each county commissioner being elected, the candidate receiving the highest number of votes shall appear on the ballot in the general election.

(B) No person shall be permitted to cast more than one vote for any specific candidate.

(4) In the general election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. The candidate receiving the highest number of votes for each office of county commissioner being elected shall be deemed to have been elected to such office.

(c) (1) The provisions of this section shall expire on December 31, 2010, unless the qualified voters of Sherman county, Kansas, elect to adopt the provisions of this section prior to such date.

(2) If a majority of the qualified electors voting on the resolution submitted to the voters pursuant to this section who reside within the corporate limits of the city of Goodland, Kansas, and a majority of the qualified electors voting on such resolution who reside outside of the corporate limits of the city of Goodland, Kansas, vote in favor thereof, the resolution shall be implemented in the manner provided by the resolution. If a majority of the electors who reside within the corporate limits of the city of Goodland, Kansas or a majority of the qualified electors who reside outside of the corporate limits of the city of Goodland, Kansas, vote against such resolution, the proposed resolution shall not be implemented.

Sec. 3. K.S.A. 19-201 is hereby amended to read as follows: 19-201. *Except as provided in section 2, and amendments thereto*, each county in the state of Kansas shall have three

(~~3~~), five (~~5~~) or seven (~~7~~) commissioner districts, which shall be designated numerically and serially beginning with number 1.

The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 4. K.S.A. 19-202 is hereby amended to read as follows: 19-202. (a) The board of county commissioners of each county shall consist of three, five or seven qualified electors.

(b) *Except as provided in section 2, and amendments thereto*, one county commissioner shall reside in and represent each commissioner district within the county. During the time that any person is a candidate for nomination or election to office as a member of the board of county commissioners and during the term of office of the county commissioner, such candidate or county commissioner shall be and remain a qualified elector who resides in such person's district.

(c) Except as provided by K.S.A. 19-203, and amendments thereto, terms of office for the board of county commissioners shall be staggered in such a way that no more than a simple majority of commissioners is elected at any general election.

(d) Except as provided by K.S.A. 19-203, and amendments thereto, all county commissioners shall hold office for a term of four years from the second Monday of January next after their election and until their successors are qualified.

(e) The provisions of subsections (a), (c) and (d) of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 5. K.S.A. 19-203 is hereby amended to read as follows: 19-203. (a) *Subject to the provisions of section 2, and amendments thereto*, when a vacancy occurs in the office of a member of the board of county commissioners, it shall be filled by appointment of a resident in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, it shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general election. Such successor shall assume office on the second Monday of January next following such election.

(b) Except as provided by subsection (c), appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) *Subject to the provisions of section 2, and amendments thereto*, vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by K.S.A. 19-204a, and amendments thereto. Such appointees shall serve until successors are elected and qualified at the next general election. Such successors shall assume office on the second Monday of January next following their election. If at the next general election following such appointments, more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two year terms and until their successors are qualified. Thereafter such members shall be elected to four year terms and until their successors are qualified. The provisions of this subsection shall apply to positions created by an increase in the number of districts at the election held in November 1990 and all such elections thereafter.

Sec. 6. K.S.A. 19-204 is hereby amended to read as follows: 19-204. (a) *Subject to the provisions of section 2, and amendments thereto, and subject to the provisions of K.S.A. 19-204a, and amendments thereto*, the board of county commissioners, on the day of the organization of the board or as soon thereafter as may be possible, shall meet and divide the county into three commissioner districts or such number of districts as is prescribed by resolution of the board, as compact and equal in population as possible, and number them. Such districts shall be subject to alteration at least once every three years.

(b) In Shawnee county, each district shall include residents of both the incorporated and unincorporated areas of the county. The number of residents in each district from the

unincorporated area of the county shall be as equal in number, as possible. Such districts shall be subject to alteration at least once every three years.

If the districts do not meet the requirements of this subsection, the districts shall be altered to comply with such requirements no later than 30 days following the effective date of this act.

(c) The board of county commissioners of any county, by resolution, may divide the county into three, five or seven commissioner districts, as compact and equal in population as possible, but no such resolution which would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election following not less than 60 days the adoption of such resolution, in which all the qualified electors of the county are entitled to vote. Upon the presentation of a petition to the board of county commissioners, signed by electors equal in number to 5% of the qualified electors of the county and verified by the county election officer, requesting that the number of commissioner districts be changed, the board of county commissioners shall cause such proposition to be submitted to the voters of the county at the next general election, following not less than 60 days the presentation of such petition, in which all of the qualified electors of the county are entitled to vote. In the event that more than one such petition is presented to the board of county commissioners prior to a general election, and any of such petitions conflicts with any other such petition with respect to the number of commissioner districts requested, the board of county commissioners shall decide, by majority vote thereon, which of the propositions shall be submitted to the voters at the next such general election. If a majority of the electors voting at such election shall be in favor of changing the number of commissioner districts, the board of county commissioners shall provide for the division of the county into commissioner districts as provided in K.S.A. 19-204a, and amendments thereto.

(d) No change in the number of commissioner districts shall become effective in any county within four years of the effective date of any previous change in the number of commissioner districts in such county.

(e) The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 7. K.S.A. 19-204a is hereby amended to read as follows: 19-204a. *Subject to the provisions of section 2, and amendments thereto*, when the voters of a county approve a change in the number of county commissioner districts at an election held under K.S.A. 19-204, and amendments thereto, the board of county commissioners, on or before January 1 immediately following such election, shall adopt a resolution dividing the county into the number of districts approved by the voters. If the board of county commissioners fails to adopt such resolution within the time prescribed, the chief judge of the district court of the county, on or before the following January 31, shall order the county divided into the appropriate number of districts.

Sec. 8. On July 1, 2009, K.S.A. 2008 Supp. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which



states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; ~~or~~

(C) *telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;*

~~(C)~~ (D) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this ~~subsection (C)~~ *subparagraph (D)* requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year; *or*

(E) *making or causing to be made any website, e-mail or other type of internet communication which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.*

*The provisions of this subparagraph (E) requiring the disclosure of the name of an individual shall apply only to any website, e-mail or other type of internet communication which is made by the candidate, the candidate's candidate committee, a political committee or a party committee and such website, e-mail or other internet communication viewed by or disseminated to at least 25 individuals. For the purposes of this subparagraph, the terms "candidate," "candidate committee," "party committee" and "political committee" shall have the meanings ascribed to them in K.S.A. 25-4143, and amendments thereto.*

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 9. On July 1, 2009, K.S.A. 2008 Supp. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed *electronically and* only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

- (1) Cash on hand on the first day of the reporting period;
- (2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;
- (3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;
- (4) the aggregate amount of contributions for which the name and address of the contributor is not known;
- (5) each contribution, rebate, refund or other receipt not otherwise listed;
- (6) the total of all receipts;
- (7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;
- (8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;
- (9) the aggregate of all expenditures not otherwise reported under this section; and
- (10) the total of expenditures.

(c) In addition to the requirements of subsection (b), every treasurer for any political committee and party committee shall report the following:

(1) (A) The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and

(B) the name and address of each candidate for state or local office who is the subject of an expenditure which:

- (i) Is made without the cooperation or consent of a candidate or candidate committee;
- (ii) expressly advocates the nomination, election or defeat of such candidate; and
- (iii) is an aggregate amount or having a fair market value in excess of \$300.

(2) The report shall state the amount, date and purpose of the expenditure in the form of an in-kind contribution. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this subsection shall be in addition to all other requirements required by this section.

(d) Treasurers of candidates and of candidate committees shall itemize the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(e) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, a description of the connection to or affiliation with such organization. If the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(f) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions.

The notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(g) The commission may require any treasurer to file a report for any period for which the required report is not on file. The notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(h) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(i) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(j) Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.

Sec. 10. On July 1, 2009, K.S.A. 2008 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature.

(b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office.

(c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto.

(d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee.

(e) General counsels for state agencies irrespective of how compensated.

(f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery.

(g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.

(h) From and after January 1, 2003, any faculty member or other employee of a post-secondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto, who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:

(1) Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or

(2) promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.

(i) ~~From and after January 1, 2006, Except as provided by section 11, and amendments thereto,~~ any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state education institution as defined by K.S.A. 76-711, and amendments thereto.

New Sec. 11. (a) The executive officer of any state educational institution as defined by K.S.A. 76-711, and amendments thereto, may require any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, to file a written statement of substantial interests with the employing state educational institution in lieu of filing the statements of substantial interests as required by K.S.A. 46-247, and amendments thereto. The executive officer shall notify the governmental ethics commission in writing of such decision to require filing of faculty statements of substantial interests only with the state educational institution.

(b) The written statement of substantial interests filed with a state educational institution pursuant to this section shall, at a minimum, include the information required by K.S.A. 46-229, and amendments thereto, and shall be an open public record. Any conflict of interests information required by the state board of regents or state educational institution that is in addition to that which is required by K.S.A. 46-229, and amendments thereto, may be placed in the faculty member's personnel records file and discretionarily closed in accordance with K.S.A. 45-221, and amendments thereto.

(c) The written statement of substantial interests required by this section shall be in such form as required by the state board of regents and shall be filed annually as part of the state educational institution's appointment or salary notification process, and supplemented as required by the state board of regents.

(d) The provisions of this section shall take effect on July 1, 2009.

(e) The provisions of this section shall expire on July 1, 2010.

Sec. 12. K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 74-2113 are hereby repealed.

Sec. 13. On July 1, 2009, K.S.A. 2008 Supp. 25-4148, 25-4156, 25-4156a and 46-247 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 12 through 15 and inserting in lieu thereof the following: “AN ACT concerning elections and election related issues; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 25-4148, 25-4156, 46-247 and 74-2113 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 25-4156a.”;

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

STEVE HUEBERT  
SCOTT SCHWAB  
TOM SAWYER  
*Conferees on part of Senate*

VICKI SCHMIDT  
PAT APPLE  
OLETHA FAUST-GOUDEAU  
*Conferees on part of House*

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on **HB 2158**.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, 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, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Taddiken.

Absent or Not Voting: Haley.

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  
DAVID HALEY  
*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 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, 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, Wysong.

Absent or Not Voting: Haley.

The Conference Committee report was adopted.

#### **ORIGINAL MOTION**

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2072**.

The President appointed Senators Vratil, McGinn and Kelly as second conferees on the part of the Senate.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

SENATE RESOLUTION No. 1892—

A RESOLUTION congratulating and commending Nicole Wayant.

WHEREAS, Nicole Wayant, a senior at Kansas State University, has received a Science and Mathematics Research for Transformation scholarship through the United States Department of Defense for graduate studies in geography, which includes payment of full tuition and employment placement in the department, and is the recipient of Kansas State's 2009 Presidential Award for Distinguished Undergraduate Student in Research for her work towards predicting disease outbreaks; and

WHEREAS, Nicole Wayant, a 2005 graduate of Topeka's Seaman High School, and the daughter of Bruce and Dawn Wayant, will graduate from Kansas State in May 2009. In the fall, she will pursue a master's in geography at the University of Nebraska-Lincoln prior to going to work for the United States Army Corps of Engineers Topographic Engineering Center in Alexandria, Virginia; and

WHEREAS, Wayant is a member of the Phi Kappa Phi honor society, an undergraduate research assistant in Kansas State's Remote Sensing Research Laboratory and an undergraduate scholar with Kansas State's Integrated Research Center. She was the inaugural recipient of the Abraham Anson Memorial Scholarship from the American Society of Photogrammetric and Remote Sensing and was named an Anderson Outstanding Senior in Academics by the Kansas State Alumni Association. She also has served as an intern with United States Senator Sam Brownback of Kansas; and

WHEREAS, The Department of Defense scholarship is designed to recruit civilian scientists and engineers to work for the department and is for students who demonstrate potential for a successful career in research and development. As the recipient of K-State's Presidential Award for Distinguished Undergraduate Student in Research, Wayant also will receive a \$1,000 award. The award was established to recognize outstanding individual contributions to the creation of new knowledge at Kansas State; and

WHEREAS, Nicole Wayant has been working on a project with Kansas State's Douglas Goodin, professor of geography and Diego Maldonado, assistant professor of mathematics. By linking vegetation with malaria, Wayant is developing a method to help determine when and where malaria outbreaks might occur. Nicole Wayant's analysis could have implications for the ability to predict malaria outbreaks before they happen; and

WHEREAS, Through her outstanding work and research, Nicole Wayant has demonstrated the attributes and dedication of a true leader and model Kansan: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Nicole Wayant for her outstanding academic achievements, for receiving such a prestigious scholarship and for her valuable contributions to scientific research; and

*Be it further resolved:* That we wish Nicole Wayant continued success in her scholastic endeavors and that we expect to hear of more accomplishments in her bright future; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Laura Kelly.

On emergency motion of Senator Kelly **SR 1892** was adopted unanimously.

#### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **Substitute for HB 2365**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL No. 2365," as follows:

"SENATE Substitute for Substitute for HOUSE BILL No. 2365

By Committee on Assessment and Taxation

"AN ACT concerning taxation; relating to settlement authority of secretary of revenue, certain assessments; income tax credits, limitations; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for certain refunds and credits; sales tax exemptions; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-32,211, 79-32,258, 79-3606, 79-3609 and 79-4502 and repealing the existing sections.";

and the substitute bill be passed.

Committee on **Public Health and Welfare** recommends **HB 2366** be passed.

#### ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **HB 2283; S Sub for Sub HB 2365; HB 2366; S Sub for HB 2369; HB 2374.**

#### ORIGINAL MOTION

On emergency motion of Senator D. Schmidt, **S Sub for Sub HB 2365; HB 2366** were advanced on the calendar under the heading of General Orders to the first order of business.

#### 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 Teichman in the chair.

On motion of Senator Teichman the following report was adopted:

Recommended **HB 2366** be passed.

The committee report on **HB 2369** recommending a **S Sub for HB 2369** be adopted, and the substitute bill be passed.

A motion by Senator Franciso to amend **S Sub for HB 2369** failed and the following amendment was rejected: on page 14, in line 43, after "(c)" by inserting "(1)";

on page 15, in line 2, by striking "(1)" and inserting "(A)"; in line 5, by striking "(2)" and inserting "(B)"; in line 10, by striking "(3)" and inserting "(C)"; in line 18, by striking "(4)" and inserting "(D)"; in line 22, by striking "(5)" and inserting "(E)"; after line 22, by inserting the following:

"(2) To be exempt under subsection (b), a generation and transmission cooperative shall poll the aggregate retail customers of its members as follows:

(A) An election under this subsection shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the retail customers of the cooperative.

(B) The proposition for deregulation shall be presented to a meeting of the retail customers of such cooperative proposing deregulation, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the retail customers

of such cooperative proposing deregulation shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting of such member electric cooperative.

(C) If the cooperative mails information to its retail customers regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative's retail customers. All expenses incidental to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(D) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the retail customers voting on the proposition, such cooperative shall notify the state corporation commission in writing of the results within 10 days after the date of the election.

(E) Voting on the proposition for deregulation shall be by mail ballot.”;

On page 16, in line 24, after “members” by inserting “and retail customers”; in line 25, after “members” by inserting “and retail customers”

A second motion by Senator Franciso to amend **S Sub for HB 2369** failed and the following amendment was rejected: on page 16, in line 3, before the period, by inserting “or 750 retail customers of the members of the generation and transmission cooperative, whichever is less”; in line 24, after “members” by inserting “and retail customers”; in line 25, after “members” by inserting “and retail customers”

Senator Franciso withdrew an amendment on **S Sub for HB 2369**.

**S Sub for HB 2365** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Donovan, on page 43, of the typed version of the bill, in line 23, by striking “and” the second time it appears; in line 26, after the semicolon, by inserting “and”; after line 26, by inserting the following:

“(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;”;

On page 72, of the typed version of the bill, in line 16, by striking “and”; in line 23, by striking the period and inserting a semicolon; following line 23, by inserting the following:

“(eeee) all sales of tangible personal property or services purchased by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services; and

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years

and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.”

**S Sub for HB 2365** be further amended by motion of Senator D. Schmidt, on page 2, of the typed version of the bill, in line 12, by striking “The” and inserting “Except as otherwise provided by subsections (c) and (d), the”;

On page 3, of the typed version of the bill, after line 1, by inserting the following:

“(c) For any tax credit or credits earned pursuant to K.S.A. 79-32,160a, and amendments thereto, other than tax credits earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, in a tax year prior to 2009 and carried forward from such prior tax year and claimed in tax years 2009 or 2010, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.

(d) For any tax credit earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, by a taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto, who has received prior to June 1, 2009, written approval from the secretary of commerce of a certificate of intent to invest in a qualified business facility, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.” and **S Sub for HB 2365** be passed as amended.

**HB 2283** be amended by adoption of the committee amendments, be further amended by motion of Senator Apple, on page 2, in line 35, by striking “and”; after line 35, by inserting the following:

“(J) the average increase in the number of benefit units in the area annexed for the three years immediately preceding such annexation; and”;

Also on page 2, in line 36, by striking “(J)” and inserting “(K)”;

also in line 36, before the period, by inserting “as agreed to by the three appointed appraisers” and **HB 2283** be passed as further amended.

**HB 2374** be amended by adoption of the committee amendments, be further amended by motion of Senator McGinn, on page 33, in line 13, by striking all after “(a)”;

by striking all in lines 14 through 19; in line 20, by striking “(b)”;

after line 23 by inserting the following:

“(b) This additional benefit may be provided to a claimant in a shared work program under K.S.A. 44-757, and amendments thereto. However, if the claimant is in a shared work program then such claimant shall not be entitled to receive this additional benefit for two consecutive benefit years after the training benefits expire. In addition, a claimant who is receiving shared work benefits when they become eligible for these additional benefits shall have their payable amount determined in the same manner as their shared work benefits.” and **HB 2374** be passed as further amended.

#### 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 **HB 2283**; **S Sub for Sub HB 2365**; **HB 2366**; **S Sub for HB 2369**; **HB 2374** were advanced to Final Action and roll call.



**HB 2283**, An act concerning water; amending K.S.A. 82a-1036 and K.S.A. 2008 Supp. 82a-612 and 82a-646 and repealing the existing sections; also repealing K.S.A. 12-527.

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, 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, Wysong.

Absent or Not Voting: Haley.

The bill passed, as amended.

**S Sub for HB 2365**, An act concerning taxation; relating to settlement authority of secretary of revenue, certain assessments; income tax credits, limitations; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for certain refunds and credits; sales tax exemptions; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-32,211, 79-32,258, 79-3606, 79-3609 and 79-4502 and repealing the existing sections.

On roll call, the vote was: Yeas 25, Nays 14, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Barnett, Brownlee, Bruce, Colyer, Huelskamp, Kelsey, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Haley.

The substitute bill passed, as amended.

**HB 2366**, An act concerning all-inclusive care for the elderly (PACE) program; amending K.S.A. 65-5112 and repealing the existing section.

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, 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, Wysong.

Absent or Not Voting: Haley.

The bill passed.

**S Sub for HB 2369**, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, and 19-101m.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, 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.

Nays: Francisco, Wysong.

Absent or Not Voting: Haley.

The substitute bill passed.

**HB 2374**, An act concerning employment security law; relating to alternative base periods, approved job training and part-time employees' eligibility for benefits; amending K.S.A. 2008 Supp. 44-703, 44-704c and 44-705 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, 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, Wysong.

Absent or Not Voting: Haley.

The bill passed, as amended.

#### MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **Senate Substitute for HB 2373**.

The House concurs in Senate amendments to **HB 2010**, and requests return of the bill.

#### VETO SUSTAINED

President Morris announced the time had arrived for consideration of the Governor's veto on **House Substitute 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, which was received on April 23, 2009, and was read before the Senate on April 29, 2009.

Senator Pilcher-Cook moved that notwithstanding the Governor's veto, **H Sub for SB 218** be passed.

On roll call, the vote was: Yeas 25, Nays 13, Present and Passing 1, Absent or Not Voting 1.

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: Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Vratil, Wysong.

Present and Passing: Teichman.

Absent or Not Voting: Haley.

A two-thirds constitutional majority having not voted in favor of overriding the Governor's veto, the motion did not prevail and the veto was sustained.

On motion of Senator D. Schmidt the Senate adjourned until 11:00 a.m., Friday, May 8, 2009.

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

PAT SAVILLE, *Secretary of the Senate*.

