

# Journal of the Senate

FIFTY-FOURTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Friday, April 5, 2013, 9:00 a.m.

The Senate was called to order by President Susan Wagle.  
The roll was called with thirty-nine senators present.  
Senator McGinn was excused.  
Invocation by Senator Steve Abrams:

The Lord's Prayer was sung by Senator Abrams.

The Pledge of Allegiance was led by Vice President Jeff King.

## MESSAGE FROM THE GOVERNOR

**SB 21, SB 24, SB 25, SB 58, SB 68, SB 75, SB 113, SB 118, SB 135, SB 139, SB 166** approved on April 5, 2013.

**SB 21, SB 24, SB 25, SB 58, SB 68, SB 75, SB 113, SB 118, SB 135, SB 139, SB 166** have been signed into law.

## INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Ostmeyer introduced the following Senate resolution, which was read:  
SENATE RESOLUTION No. 1743—

A RESOLUTION congratulating the Hoxie High School women's basketball team on its class 1A state championship.

WHEREAS, The Hoxie High School women's basketball team won the 2013 Kansas State High School Activities Association class 1A state championship with a victory over Olpe High School; and

WHEREAS, This is the Hoxie High School women's basketball team's second consecutive class 1A state championship title. Last year, Hoxie defeated the St. John High School women's basketball team. This season the Hoxie team had a remarkable 26-0 record; and

WHEREAS, The Olpe Eagles kept up with the Hoxie Indians until Hoxie went on a 22-10 point run in the third quarter. Hoxie scored all five of its three point shots in the third quarter. Olpe High School, however, came back in the fourth quarter making the score 67-63 in favor of Hoxie with 19 seconds left in the game. Hoxie ended up keeping the lead, winning the game 68-63; and

WHEREAS, Shelly Hoyt is the head basketball coach for the Hoxie High women's

basketball team. When asked about her team she said, "As a team we really don't talk about winning streaks and state titles. We really focus on teaching the girls, helping them grow. But this is pretty amazing, to win another championship." Coach Hoyt is assisted by Marlin Beougher; and

WHEREAS, The members of the 2013 Hoxie High School women's basketball team were Danel Stithem, Ellie Heim, Marlee McKenna, Sarah Farber, Kristina Farber, Gabriel Spresser, Natasha Allmer, Kelsey Kelch, Carly Heim, Lexi Schamberger, Terran Hoyt, Scout Washington, Tabiatha King and Kelsey Geerdes. The team managers were Quinlan Stein, Brynn Niblock, Erin Carter, Amber Erwin and Nicole Heim: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate the Hoxie High School women's basketball team on its consecutive state championship titles. These young women have worked hard throughout the season, and these state titles are testaments to that hard work; and

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

On emergency motion of Senator Ostmeyer **SR 1743** was adopted unanimously.

#### CONFERENCE COMMITTEE REPORT

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

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

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

On motion of Senator Abrams the Senate adopted the conference committee report on **SB 171**, and requested a new conference be appointed.

The President appointed Senators Abrams, Arpke and Hensley as a second Conference Committee on the part of the Senate on **SB 171**.

The Vice President appointed Senators Abrams, Arpke and Hensley as second conferees on the part of the Senate.

#### MESSAGES FROM THE HOUSE

The House adopts the Conference Committee report on **SB 124**.

The House adopts the Conference Committee report on **SB 129**.

The House adopts the Conference Committee report on **SB 187**.

The House adopts the Conference Committee report to agree to disagree on **SB 171**, and has appointed Representatives Cassidy, Grosserode and Winn as second conferees on the part of the House.

The House adopts the Conference Committee report on **HB 2078**.

The House adopts the Conference Committee report on **HB 2109**.

The House adopts the Conference Committee report on **HB 2201**.

The House adopts the Conference Committee report on **HB 2319**.

The House adopts the Conference Committee report on **HB 2363**.

The House adopts the Conference Committee report to agree to disagree on **HB 2234**, and has appointed Representatives Proehl, Ryckman Sr. and Perry as secondSecond conferees on the part of the House.

The House adopts the Conference Committee report on **HB 2107**.

The House adopts the Conference Committee report on **HB 2025**.

The House adopts the Conference Committee report on **S Sub for HB 2034**.

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

The House adopts the Conference Committee report on **SB 122**.

The House adopts the Conference Committee report on **SB 171**.

The House adopts the Conference Committee report on **Sub HB 2017**.

The House adopts the Conference Committee report on **S Sub for HB 2093**.

The House adopts the Conference Committee report on **HB 2339**.

The conference committee report on **S Sub for HB 2199** was ruled out of order under Joint Rule 3(f).

The House concurs in Senate amendments to **HB 2069**, and requests return of the bill.

The House concurs in Senate amendments to **HB 2349**, and requests return of the bill.

The House adopts the Conference Committee report on **SB 199**.

Motion to concur on Senate amendments to **HB 2059** failed, bill remains in conference.

The House adopts the Conference Committee report on **SB 102**.

The House adopts the Conference Committee report on **SB 23**.

#### **REPORT ON ENROLLED BILLS**

**SR 1743, SR 1752, SR 1753, SR 1754** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 5, 2013.

#### **CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 57** submits the following report:

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

On page 1, following line 35, by inserting:

"Sec. 4. K.S.A. 2012 Supp. 47-619 is hereby amended to read as follows: 47-619. ~~When requested by the animal health commissioner, the owner or owners of any stockyards doing business in this state shall keep constantly in their employ a competent inspector of livestock appointed by the commissioner whose compensation shall be fixed and duties prescribed by the animal health commissioner. The animal health commissioner shall prescribe that portion of the compensation which shall be paid by the owner or owners of the stockyards. It shall be the duty of such inspector~~ the animal health commissioner or the commissioner's designee to work in conjunction with the United States government authorities to prohibit and prevent any stock affected with any contagious or infectious disease to be driven or shipped out of any such stockyards except to some licensed rendering establishment.";

On page 3, in line 4, by striking "except as"; by striking all in lines 5 through 11 and inserting the following:

"unless the commissioner has:

(A) Discovered a violation of article 21 of chapter 47 of the Kansas Statutes

Annotated, and amendments thereto; or

(B) received a complaint that such premises is not being operated, managed or maintained in accordance with rules and regulations adopted pursuant to this section.";

Also on page 3, in line 12, by striking "(3)" and inserting "(2)"; in line 18, by striking "(2)";

And by renumbering sections accordingly;

Also on page 3, in line 34, before "47-650" by inserting "47-619,";

On page 1, in line 2, after the first semicolon by inserting "duties of the animal health commissioner;" also in line 2, following "2-907" by inserting ", 47-619";

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

GARRETT LOVE

DAN KERSCHEN

MARCI FRANCISCO

*Conferees on part of Senate*

SHARON SCHWARTZ

KYLE HOFFMAN

PUNKE-WE VICTORS

*Conferees on part of House*

Senator Love moved the Senate adopt the Conference Committee Report on **Sub SB 57**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 96** submits the following report:

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

On page 1, in line 14, after "fee" by inserting "as follows: (1)"; in line 18, after "treasurer" by inserting "; and (2) in an amount not to exceed \$2.50 per vehicle registration or renewal thereof for registration, when such application is made at a registration facility in a county with a single vehicle registration facility as established by the county treasurer";

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

MIKE PETERSEN

KAY WOLF

PAT PETTEY

*Conferees on part of Senate*

RICHARD PROEHL  
 RON RYCKMAN, SR.  
 EMILY PERRY

*Conferees on part of House*

Senator Petersen moved the Senate adopt the Conference Committee Report on **SB 96**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Powell, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Knox, Pilcher-Cook, Pyle.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 164** 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 9 through 32; by striking all on pages 2 through 4;

On page 5, by striking all in lines 1 through 29 and inserting:

"(a) "All-terrain vehicle" means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, having a seat designed to be straddled by the operator. As used in this subsection, nonhighway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.

(b) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(c) "Contractor" means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

(d) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(e) "Division" means the division of vehicles of the department of revenue.

(f) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(g) "Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage.

devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

(1) Residential electric service;

(2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.

(h) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2012 Supp. 8-135d, and amendments thereto.

(i) "Electronic notice of security interest" means the division's online internet program which enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

(j) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(k) "Farm trailer" means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

(l) "Foreign vehicle" means every motor vehicle, trailer, or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

(n) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(o) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(p) "Lien" means a security interest as defined in this section.

(q) "Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

(r) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(s) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle or recreational off-highway vehicle.

(t) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(u) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as defined in this section.

(v) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

(1) A motor which produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(w) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

(x) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(y) "Nonresident" means every person who is not a resident of this state.

(z) "Notice of security interest" means a notification to the division from a dealer or secured party of a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle which has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

(aa) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(bb) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to

possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(cc) "Passenger vehicle" means every motor vehicle, as defined in this section, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(dd) "Person" means every natural person, firm, partnership, association or corporation.

(ee) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(ff) "Recreational off-highway vehicle" means any motor vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, having a nonstraddle seat and steering wheel for steering control.

(gg) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(hh) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(ii) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(ji) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(kk) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(ll) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(mm) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(nn) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(oo) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers or vehicles.

(pp) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(qq) "Vehicle functions" means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver's licenses and division-issued identification cards associated with services and



functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. "Vehicle functions" may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

(rr) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle."

On page 7, following line 13, by inserting:

"Sec. 3. K.S.A. 8-1436 is hereby amended to read as follows: 8-1436. "Motor home" means every motor vehicle designed, ~~used or maintained primarily as a mobile dwelling, office or commercial space to provide temporary living quarters for recreational, camping or travel use.~~

Sec. 4. K.S.A. 40-298 is hereby amended to read as follows: 40-298. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Automobile dealer" means a new vehicle dealer or a used vehicle dealer as defined by K.S.A. ~~8-178~~ 8-126, and amendments thereto;

(b) "Automobile" means a passenger vehicle as defined by ~~subsection (x) of K.S.A. 8-126, and amendments thereto;~~

(c) "Dealer" means any automobile dealer or lending agency;

(d) "Lending agency" means any person engaged in the business of financing or lending money to any person to be used in the purchase or financing of a motor vehicle; and

(e) "Person" means any individual, partnership, corporation or other association of persons.

Sec. 5. K.S.A. 2012 Supp. 44-1204 is hereby amended to read as follows: 44-1204. (a) On and after January 1, 1978, no employer shall employ any employee for a workweek longer than ~~forty-six (46)~~ 46 hours, unless such employee receives compensation for employment in excess of ~~forty-six (46)~~ 46 hours in a workweek at a rate of not less than ~~one and one-half (1<sup>1</sup>/<sub>2</sub>)~~ 1<sup>1</sup>/<sub>2</sub> times the hourly wage rate at which such employee is regularly employed.

(b) No employer shall be deemed to have violated subsection (a) with respect to the employment of any employee who is covered by this section, who is engaged in the public or private delivery of emergency medical services as an attendant as defined by K.S.A. 65-6112, and amendments thereto, or who is engaged in fire protection or law enforcement activities, including any member of the security personnel in any correctional institution, and who is paid compensation at a rate of not less than 1<sup>1</sup>/<sub>2</sub> times the regular rate at which such employee is employed:

(1) In any work period of 28 consecutive days in which such employee works for tours of duty which in the aggregate exceed 258 hours; or

(2) in the case of any such employee to whom a work period of at least seven but less than 28 days applies, in any such work period in which such employee works for

tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in such work period as 258 hours bears to 28 days.

(c) The provisions of this section shall not apply to the employment of:

(1) Any employee who is covered under the provisions of section 7 of the fair labor standards act of 1938 as amended (~~29 U.S.C.A. § 207~~), and as amended by the fair labor standards amendments of 1974, and ~~any other acts amendatory thereof or supplemental amendments~~ thereto; or

(2) any employee who is primarily engaged in selling motor vehicles, as defined in ~~subsection (b) of~~ K.S.A. 8-126, and amendments thereto, for a nonmanufacturing employer primarily engaged in the business of selling such vehicles to ultimate purchasers;

(3) any person who is sentenced to the custody of the secretary of corrections and any person serving a sentence in a county jail.

(d) For the purposes of this section, the agreement or practice by employees engaged in fire protection or law enforcement activities of substituting for one another on regularly scheduled tours of duty, or a part thereof, shall be deemed to have no effect on hours of work if:

(1) The substituting is done voluntarily by the employees and not at the behest of the employer;

(2) the reason for substituting is due not to the employer's business practice but to the employee's desire or need to attend to a personal matter;

(3) a record is maintained by the employer of all time substituted by the employer's employees; and

(4) the period during which time is substituted and paid back does not exceed 12 months.

Sec. 6. K.S.A. 59-3508 is hereby amended to read as follows: 59-3508. A motor vehicle, as defined by ~~subsection (b) of~~ K.S.A. 8-126, and amendments thereto, may be titled in transfer-on-death, TOD, form by including in the certificate of title a designation of a beneficiary or beneficiaries to whom the motor vehicle shall be transferred on death of the owner or the last survivor of the joint tenant with right of survivorship owners, subject to the rights of all lien holders.";

And by renumbering remaining sections accordingly;

Also on page 7, in line 14, following "K.S.A." by inserting "8-1436, 40-298 and 59-3508 and K.S.A."; also in line 14, by striking "and" and inserting a comma; also in line 14, following "8-129" by inserting "and 44-1204";

On page 1, in the title, in line 1, by striking "the" and inserting "definitions:"; in line 2, following "K.S.A" by inserting "8-1436, 40-298 and 59-3508 and K.S.A."; also in line 2, by striking "and" and inserting a comma; in line 3, following "129" by inserting "and 44-1204";

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

MIKE PETERSEN

KAY WOLF

PAT PETTEY

*Conferees on part of Senate*

JANICE PAULS  
 RON RYCKMAN, SR.  
 EMILY PERRY

*Conferees on part of House*

Senator Petersen moved the Senate adopt the Conference Committee Report on **SB 164**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 168** submits the following report:

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

On page 2, in line 43, by striking the colon;

On page 3, in line 1, by striking "(1) Wholesale"; in line 2, by striking "; or"; by striking all in line 3; in line 4, by striking all before the period;

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

GARRETT LOVE  
 DAN KERSCHEN  
 MARCI FRANCISCO

*Conferees on part of Senate*

SHARON SCHWARTZ  
 KYLE HOFFMAN  
 PUNKE-WE VICTORS

*Conferees on part of House*

Senator Love moved the Senate adopt the Conference Committee Report on **SB 168**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Francisco, Hawk, Hensley, Holland, Kelly.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2164** submits the following report:

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

On page 1, in line 5, before "Section" by inserting "New"; in line 9, by striking "regarding citizenship"; in line 10, by striking all before "to"; in line 13, after the period, by inserting "Any such information provided by a jury commissioner to the secretary of state shall be limited to the information regarding citizenship and the full name, current and prior addresses, age and telephone number of the prospective juror, and, if available, the date of birth of the prospective juror."; in line 15, by striking "and the"; by striking all in line 16; in line 17, by striking all before the period; following line 19, by inserting:

"Sec. 2. K.S.A. 2012 Supp. 22-3001 is hereby amended to read as follows: 22-3001. (a) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(b) The district or county attorney in such attorney's county may petition the chief judge or the chief judge's designee in such district court to order a grand jury to be summoned in the designated county in the district to ~~investigate alleged violations of an off-grid felony, a severity level 1, 2, 3 or 4 felony or a drug severity level 1 or 2 felony consider any alleged felony law violation. The attorney general in any judicial district may petition the chief judge or the chief judge's designee in such judicial district to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation if authorized by the district or county attorney in such judicial district or if jurisdiction is otherwise authorized by law.~~ The chief judge or the chief judge's designee in the district court of the county shall then consider the petition and, if it is found that the petition is in proper form, as set forth in this subsection, shall order a grand jury to be summoned within 15 days after receipt of such petition.

(c) (1) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election.

(2) The petition, upon its face, shall state the name, address and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

(3) The petition shall be in substantially the following form:

The undersigned qualified electors of the county of \_\_\_\_\_ and state of Kansas hereby request that the district court of \_\_\_\_\_ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or

printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any. One of the signers of each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true. The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court, together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election. The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned.

(4) After a grand jury is summoned pursuant to this subsection, but before it begins deliberations, the judge or judges of the district court of the county in which the petition is presented shall provide instructions to the grand jury regarding its conduct and deliberations, which instructions shall include, but not be limited to, the following:

(A) You have been impaneled as a grand jury pursuant to a citizens' petition filed in this court, signed by (insert number) qualified electors of this county, stating (insert the subject matter described in the petition, including a reasonably specific identification of the areas to be inquired into and the allegations sufficient to warrant a finding that the grand jury's inquiry may lead to information which, if true, would warrant a true bill of indictment.) You are charged with making inquiry with regard to this subject matter and determining whether the facts support allegations warranting a true bill of indictment.

(B) The person filing the citizens' petition filed in this court must be the first witness you call for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(C) You may, with the approval of this court, employ special counsel and investigators, and incur such other expense for services and supplies as you and this court deem necessary. Any special counsel or investigator you employ shall be selected by a majority vote of your grand jury. You may make such selection only after hearing testimony from the person who filed the citizens' petition. You may utilize the services of any special counsel or investigator you employ instead of, or in addition to, the services of the prosecuting attorney.

(D) If any witness duly summoned to appear and testify before you fails or refuses to obey, compulsory process will be issued by this court to enforce the witness' attendance.

(E) If any witness appearing before you refuses to testify or to answer any questions asked in the course of the witness' examination, you shall communicate that fact to this court in writing, together with a statement regarding the question the witness refuses to answer. This court will determine and inform you of whether the witness is bound to answer or not. However, no witness appearing before you can be compelled to make any statement which will incriminate such witness.

(F) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand

jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

(G) At the conclusion of your inquiry and determination, you will return either a no bill of indictment or a true bill of indictment.

(d) The grand jury shall consist of 15 members and shall be drawn qualified and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors.

Sec. 3. K.S.A. 22-3002 is hereby amended to read as follows: 22-3002. ~~(+)~~(a) The prosecuting attorney may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges by the state shall be made before the administration of the oath to the jurors and shall be tried by the court.

~~(2)~~(b) A motion to dismiss the indictment made by the defendant may be based on objections to the array or on the lack of legal qualification of an individual juror. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to K.S.A. 22-3004, and amendments thereto, that 12 or more jurors, after deducting the jurors not legally qualified, concurred in finding the indictment.

(c) After the prosecutor has conducted an examination of the prospective grand jurors under this section, a list of all remaining legally qualified grand jurors shall be approved by the court and submitted to the clerk of the court of such county for a second drawing of grand juror names pursuant to K.S.A. 43-107, and amendments thereto.

Sec. 4. K.S.A. 22-3003 is hereby amended to read as follows: 22-3003. (a) An oath or affirmation shall be administered to the presiding juror of the grand jury, in substance as follows:

"You, as presiding juror of the grand jury, shall diligently inquire, and true presentment make, of all public offenses against the laws of this state cognizable by this court, committed or triable within this county, of which you have or can obtain legal evidence. You shall present no person through malice, hatred or ill will, nor leave any unrepresented through fear, favor or affection, or for any reward or the promise of hope thereof, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding."

(b) Other members of the grand jury shall be administered the following oath:

"The same oath or affirmation, which your presiding juror has taken now before you on the presiding juror's part, you and each of you shall well and truly observe on your part."

Sec. 5. K.S.A. 22-3004 is hereby amended to read as follows: 22-3004. (a) The court shall appoint one of the jurors to be presiding juror and another to be deputy presiding juror.

(b) The presiding juror shall have power to administer oaths and affirmations and shall sign all indictments.

(c) The presiding juror or another juror designated by the presiding juror shall keep a record of the name of each juror concurring in the finding of every indictment and

shall file the record with the clerk of the court, but the record shall not be made public except on order of the court.

(d) During the absence of the presiding juror, the deputy presiding juror shall act as presiding juror.

Sec. 6. K.S.A. 22-3005 is hereby amended to read as follows: 22-3005. ~~(+) (a)~~ When a grand jury is impaneled and sworn, it shall be charged by the judge who summoned it. In so doing, the judge shall give the grand jurors such information as ~~he~~ the judge deems proper and as is required by law, as to their duties, and as to any charges of crimes known to the court and likely to come before the grand jury.

~~(2) (b)~~ When the grand jury has been impaneled, sworn and charged, it shall retire to a private room, and inquire into the crimes cognizable by it.

Sec. 7. K.S.A. 22-3006 is hereby amended to read as follows: 22-3006. ~~(+) (a)~~ Persons summoned for service as grand jurors shall be compensated for their service and expenses at the rates provided by law for the compensation of petit jurors in the district court. Such compensation shall be paid from the general fund of the county.

~~(2) (b)~~ The grand jury shall employ a certified shorthand reporter who shall make a stenographic record of all testimony and other proceedings before the grand jury. The compensation of the reporter shall be fixed by the district court and paid from the general fund of the county.

~~(3) (c)~~ The grand jury may, with the approval of the district court, ~~employ special counsel, investigators, and incur such other expense~~ employ investigators and, except in the case of grand juries impaneled pursuant to subsection (b) of K.S.A. 22-3001, and amendments thereto, employ special counsel. The grand jury may also incur other expenses for services and supplies as it and the district court may deem necessary. Compensation for such services and supplies shall be fixed by the district court and shall be paid from the general fund of the county. Any special counsel or investigator employed by the grand jury shall be selected by majority vote of such grand jury only after hearing testimony from the person filing the petition pursuant to K.S.A. 22-3001, and amendments thereto. Subject to the provisions of this section, the grand jury shall have all authority to investigate any concerns associated with such petition.

Sec. 8. K.S.A. 22-3007 is hereby amended to read as follows: 22-3007. ~~(+) (a)~~ In the case of grand juries impaneled pursuant to subsection (a) or (c) of K.S.A. 22-3001, and amendments thereto, the prosecuting attorney shall:

~~(1)~~ When requested by any grand jury it shall be the duty of the prosecuting attorney to, attend sessions thereof for the purpose of examining witnesses or giving the grand jury advice upon any legal matter; and

~~(2)~~ The prosecuting attorney shall, upon his upon such attorney's request, be permitted to appear before the grand jury for the purpose of giving information relative to any matter cognizable by the grand jury, and may be permitted to interrogate witnesses if the grand jury deems it necessary.

~~(b)~~ In the case of grand juries impaneled pursuant to subsection (b) of K.S.A. 22-3001, and amendments thereto, the prosecuting attorney shall:

~~(1)~~ Attend all sessions thereof and inform the grand jury of all offenses liable to indictment and evidence of which will be presented to them for consideration;

~~(2)~~ present witnesses and examine such witnesses on all matters to be considered by the grand jury; and

~~(3)~~ give the grand jury advice upon all questions related to the proper discharge of

their duties.

Sec. 9. K.S.A. 2012 Supp. 22-3008 is hereby amended to read as follows: 22-3008.

~~(+)~~ (a) Whenever required by any grand jury, its presiding juror or the prosecuting attorney, the clerk of the court in which the jury is impaneled shall issue subpoenas and other process to bring witnesses to testify before the grand jury. The person who filed the petition pursuant to K.S.A. 22-3001, and amendments thereto, shall be the first witness called by the grand jury for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

~~(2)~~ (b) If any witness duly summoned to appear and testify before a grand jury fails or refuses to obey, compulsory process shall be issued to enforce the witness' attendance, and the court may punish the delinquent in the same manner and upon the same proceedings as provided by law for disobedience of a subpoena issued out of the court in other cases.

~~(3)~~ (c) If any witness appearing before a grand jury refuses to testify or to answer any questions asked in the course of the witness' examination, the fact shall be communicated to a district judge of the judicial district in writing, on which the question refused to be answered shall be stated. The judge shall then determine whether the witness is bound to answer or not, and the grand jury shall be immediately informed of the decision.

~~(4)~~ (d) No witness before a grand jury shall be required to incriminate the witness' self.

~~(5)~~ ~~(a)~~ (e) (1) The county or district attorney, or the attorney general, at any time, on behalf of the state, and the district judge, upon determination that the interest of justice requires, and after giving notice to the prosecuting attorney and hearing the prosecuting attorney's recommendations on the matter, may grant in writing to any person:

~~(i)~~ (A) Transactional immunity. Any person granted transactional immunity shall not be prosecuted for any crime which has been committed for which such immunity is granted or for any other transactions arising out of the same incident.

~~(ii)~~ (B) Use and derivative immunity. Any person granted use and derivative use immunity may be prosecuted for any crime, but the state shall not use any testimony against such person provided under a grant of such immunity or any evidence derived from such testimony. Any defendant may file with the court a motion to suppress in writing to prevent the state from using evidence on the grounds that the evidence was derived from and obtained against the defendant as a result of testimony or statements made under such grant of immunity. The motion shall state facts supporting the allegations. Upon a hearing on such motion, the state shall have the burden to prove by clear and convincing evidence that the evidence was obtained independently and from a collateral source.

~~(b)~~ (2) Any person granted immunity under either or both of subsections ~~(5)(a)(i) or (ii)~~ (e)(1)(A) or (e)(1)(B) may not refuse to testify on grounds that such testimony may self incriminate unless such testimony may form the basis for a violation of federal law for which immunity under federal law has not been conferred. No person shall be compelled to testify in any proceeding where the person is a defendant.

~~(c)~~ (3) No immunity shall be granted for perjury as provided in K.S.A. 2012 Supp. 21-5903, and amendments thereto, which was committed in giving such evidence.

~~(6)~~ (f) If the judge determines that the witness must answer and if the witness



persists in refusing to answer, the witness shall be brought before the judge, who shall proceed in the same manner as if the witness had been interrogated and had refused to answer in open court.

(g) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

Sec. 10. K.S.A. 22-3009 is hereby amended to read as follows: 22-3009. ~~(4)~~ (a) Any person called to testify before a grand jury must be informed that ~~he~~ such person has a right to be advised by counsel and that ~~he may~~ such person shall not be required to make any statement which will incriminate ~~him~~ such person. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, ~~he~~ the witness shall be required to obtain other counsel within three ~~(3)~~ days in order that the work of the grand jury may proceed. If such person is indigent and unable to obtain the services of counsel, the court shall appoint counsel to assist ~~him~~ such person who shall be compensated as counsel appointed for indigent defendants in the district court.

~~(2)~~ (b) Counsel for any witness may be present while the witness is testifying and may interpose objections on behalf of the witness. ~~He~~ Such counsel shall not be permitted to examine or cross-examine ~~his~~ such counsel's client or any other witness before the grand jury.

Sec. 11. K.S.A. 22-3010 is hereby amended to read as follows: 22-3010. Prosecuting attorneys, special counsel employed by the grand jury, the witness under examination and ~~his~~ such witness' counsel, interpreters when needed and, for the purpose of taking the evidence, the reporter for the grand jury, may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

Sec. 12. K.S.A. 22-3011 is hereby amended to read as follows: 22-3011. ~~(4)~~ (a) An indictment may be found only on the concurrence of 12 or more grand jurors. When an indictment is found, the presiding juror shall endorse thereon "a true bill" and shall sign the presiding juror's name as presiding juror.

~~(2)~~ (b) When 12 or more grand jurors do not concur in finding an indictment, the presiding juror shall certify that the indictment is "not a true bill."

~~(2)~~ (c) Indictments found by the grand jury shall be presented by its presiding juror, in the jury's presence, to the court and shall be filed and remain as records of the court.

Sec. 13. K.S.A. 22-3012 is hereby amended to read as follows: 22-3012. (a) Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror ~~may~~ shall be made to the prosecuting attorney for use in the performance of ~~his~~ such attorney's duties.

(b) Otherwise a juror, attorney, interpreter, reporter or any typist who transcribes recorded testimony ~~may~~ shall not disclose matters occurring before the grand jury ~~only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury except, upon court order:~~

(1) The testimony of a witness before the grand jury may be disclosed to a defendant to determine whether it is consistent with testimony given before the court,

but only upon a showing of good cause:

(2) evidentiary materials presented to one grand jury may be disclosed to a succeeding grand jury; and

(3) grand jury testimony by a defendant may be disclosed to such defendant, but only in the criminal action resulting from such testimony.

(c) No obligation of secrecy may be imposed upon any person except in accordance with this ~~rule section~~. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

Sec. 14. K.S.A. 22-3013 is hereby amended to read as follows: 22-3013. ~~(+) (a)~~ A grand jury impaneled pursuant to subsection (a) or (c) of K.S.A. 22-3001, and amendments thereto, shall serve until it shall advise the court in writing that it has completed its investigation, but no such grand jury shall serve for more than three months unless extended by order of the district court. The district court may, before the expiration of the tenure of a such grand jury, make an order extending such grand jury for an additional period of not to exceed three months if the court finds that an investigation begun by ~~the such~~ grand jury cannot be completed within the initial three months period and that the public interest requires the continuation of ~~the such~~ grand jury.

(b) A grand jury impaneled pursuant to subsection (b) of K.S.A. 22-3001, and amendments thereto, shall serve for a period of six months. The district court may, before the expiration of the tenure of such grand jury, make an order extending such grand jury for an additional period of not to exceed six months upon good cause shown by such grand jury.

~~(2) (c)~~ At any time for cause shown the court may excuse a juror either temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

Sec. 15. K.S.A. 22-3014 is hereby amended to read as follows: 22-3014. (a) Witnesses attending a grand jury in response to a subpoena shall be allowed the same fees as are allowed witnesses in criminal cases in the district court.

(b) The Such witness fees shall be paid from the general fund of the county upon a certificate of attendance signed by the presiding juror of the grand jury.

New Sec. 16. (a) Matters of form, time, place, names. At any time before or during trial, the court may, upon application of the people and with notice to the defendant and opportunity for the defendant to be heard, order the amendment of an indictment with respect to defects, errors or variances from the proof relating to matters of form, time, place and names of persons when such amendment does not change the substance of the charge, and does not prejudice the defendant on the merits. Upon ordering an amendment, the court, for good cause shown, may grant a continuance to provide the defendant adequate opportunity to prepare a defense.

(b) Prohibition as to matters of substance. An indictment shall not be amended as to the substance of the offense charged.

(c) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 17. K.S.A. 2012 Supp. 43-107 is hereby amended to read as follows: 43-107. (a) At least 30 days before service is required, the clerk of the court of the county where

such court is to be held shall draw from the jury box the names of 30 persons to serve as grand jurors and the names of 24 persons to serve as petit jurors. In the event that a county has appropriate base information programmed as a part of its computer operations so that it might comply with the spirit of the jury selection laws of Kansas, the jury commissioners may by local rule provide alternate methods for securing jury panels directly from the computer without the necessity of drawing names or cards from a wheel manually.

(b) Upon receipt of a list of all remaining legally qualified grand jurors from the court pursuant to K.S.A. 22-3002, and amendments thereto, the clerk of the court of the county where such court is to be held shall draw for a second time 15 names of persons to serve as grand jurors from such list. In the event that the county in which court is to be held has an alternate method for securing jury panels directly from the computer, the clerk shall use the computer to generate 15 names of persons to serve as grand jurors from such list.

New Sec. 18. (a) Upon a majority vote of the grand jury, the grand jury may seek the removal of the assigned judge pursuant to K.S.A. 20-311d, and amendments thereto.

(b) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 19. K.S.A. 22-3002, 22-3003, 22-3004, 22-3005, 22-3006, 22-3007, 22-3009, 22-3010, 22-3011, 22-3012, 22-3013 and 22-3014 and K.S.A. 2012 Supp. 22-3001, 22-3008 and 43-107 are hereby repealed.";

And by redesignating sections accordingly;

On page 1, in the title, in line 1, by striking "jurors" and inserting "juries"; in line 2, following "service" by inserting "; grand juries; amending K.S.A. 22-3002, 22-3003, 22-3004, 22-3005, 22-3006, 22-3007, 22-3009, 22-3010, 22-3011, 22-3012, 22-3013 and 22-3014 and K.S.A. 2012 Supp. 22-3001, 22-3008 and 43-107 and repealing the existing sections";

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE PAULS

*Conferees on part of House*

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2164**.

On roll call, the vote was: Yeas 26; Nays 12; Present and Passing 1; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Bowers, Emler, Faust-Goudeau, Haley, Hawk, Hensley, Holland, Kelly, Longbine, Pettey, V. Schmidt, Wolf.

Present and Passing: Francisco.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2199** submits the following report: The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 6 through 36;

By striking all on pages 2 and 3 and inserting:

"New Section 1. (a) Notwithstanding the provisions of either the Kansas administrative procedure act, and amendments thereto, or any rule and regulation adopted pursuant to the Kansas liquor control act, and amendments thereto, governing the issuance of any written administrative notice or order concerning the imposition of any proposed civil fine or other penalty to be imposed for a violation of any of the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto, such notice or order shall be issued no later than 90 days after the date a citation for such violation was issued.

(b) This section shall be part of and supplemental to the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto.

New Sec. 2. (a) Notwithstanding the provisions of either the Kansas administrative procedure act, and amendments thereto, or any rule and regulation adopted pursuant to the club and drinking establishment act, and amendments thereto, governing the issuance of any written administrative notice or order concerning the imposition of any proposed civil fine or other penalty to be imposed for a violation of any of the provisions of the club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto, such notice or order shall be issued no later than 90 days after the date a citation for such violation was issued.

(b) This section shall be part of and supplemental to the provisions of the Kansas club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto.

Sec. 3. K.S.A. 2012 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and the maker's family; persons who receive a personal invitation to an event conducted by the maker and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; ~~or~~

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary; ~~;~~

(h) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; ~~or~~

(i) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

Sec. 4. K.S.A. 2012 Supp. 41-308d is hereby amended to read as follows: 41-308d.

(a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a

presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the retailer on whose premises the tasting is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier or its agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

(5) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 5. K.S.A. 2012 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) ~~Who has not been is not~~ a citizen of the United States ~~for at least 10 years,~~ except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is

an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2012 Supp. 41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;



(2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10<sup>th</sup>, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 6. K.S.A. 2012 Supp. 41-354 is hereby amended to read as follows: 41-354. (a) A microdistillery license shall allow:

(1) The manufacture of not more than 50,000 gallons of spirits per year and the storage thereof;

(2) the sale to spirit distributors of spirits, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to

consumers for consumption off the licensed premises, of spirits manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of spirits manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of spirits and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of spirits and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microdistillery licensee, the director may issue not to exceed one microdistillery packaging and warehousing facility license to the microdistillery licensee. A microdistillery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microdistillery to the licensed premises of the microdistillery packaging and warehousing facility, of spirits manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microdistillery packaging and warehousing facility to the licensed premises of the microdistillery, of spirits manufactured by the licensee; or

(3) the removal from the licensed premises of the microdistillery packaging and warehousing facility of spirits manufactured by the licensee for the purpose of delivery to a licensed spirits wholesaler.

(c) A microdistillery may sell spirits in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microdistillery may serve samples of spirits and serve and sell spirits and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of distillers a permit to import into this state small quantities of spirits. Such spirits shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such spirits shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of spirit to be imported, the quantity to be imported, the tasting programs for which the spirit is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of spirits pursuant to this subsection and the conduct of tasting programs for which such spirits are imported.

(e) A microdistillery license or microdistillery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microdistillery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microdistillery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

(h) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(i) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(j) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 7. K.S.A. 41-713 is hereby amended to read as follows: 41-713. (a) It shall be unlawful for a retailer of alcoholic liquor:

(1) To permit any person to mix drinks in or on the licensed premises, except as provided in subsection (b);

(2) to employ any person under the age of ~~twenty-one (21)~~ 21 years in connection with the operation of such retail establishment; or

(3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.

(b) The provisions of subsection (a)(1) shall not apply to the preparation or mixing of samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 2012 Supp. 41-308d, and amendments thereto.

Sec. 8. K.S.A. 2012 Supp. 41-719 is hereby amended to read as follows: 41-719.

(a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the premises

licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or K.S.A. 2012 Supp. 41-354, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

(12) On the premises of the state capitol building or on its surrounding premises during an official state function that has been approved by the legislative coordinating council.

(13) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(j) For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.

Sec. 9. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as follows: 41-2601.

As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by K.S.A. 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. Drinking establishment includes a railway car.

(i) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(j) "Food service establishment" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(k) "Hotel" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(l) "Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term "individual drink" includes beverages containing not more than: (1) Eight ounces of wine; (2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces of a single spirit or a combination of spirits.

(m) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

(n) "Minor" means a person under 21 years of age.

(o) "Morals charge" means a charge involving prostitution; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(p) "Municipal corporation" means the governing body of any county or city.

(q) "Public venue" means an arena, stadium, hall or theater, used primarily for

athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

- (1) Not less than 4,000 permanent seats; and
- (2) not less than two private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

(r) "Railway car" means a locomotive drawn conveyance used for the transportation and accommodation of human passengers that is confined to a fixed rail route and which derives from sales of food for consumption on the railway car not less than 30% of its gross receipts from all sales of food and beverages in a 12-month period.

(s) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment.

(t) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

(u) "Sample" means a serving of alcoholic liquor which contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A sample of a mixed alcoholic beverage shall contain not more than one-half ounce of distilled spirits.

~~(v)~~ (v) "Secretary" means the secretary of revenue.

~~(w)~~ (w) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Sec. 10. K.S.A. 41-2610 is hereby amended to read as follows: 41-2610. It shall be unlawful for any licensee or holder of a temporary permit under this act to:

(a) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor.

(b) Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

~~(c) Employ knowingly or to continue in employment any person in connection with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, during the two-year period immediately following such adjudging. Knowingly employ or continue to employ any person in~~

connection with the dispensing or serving of alcoholic liquor, or the mixing of drinks containing alcoholic liquor, who has been adjudged guilty of two or more violations of K.S.A. 2012 Supp. 21-5607, and amendments thereto, furnishing alcoholic liquor to minors or a similar law of any other state, or of the United States, pertaining to furnishing alcoholic liquor to minors within the immediately preceding five years, or who has been adjudged guilty of three or more violations of any intoxicating liquor law of this or any other state, or of the United States, not involving the furnishing of alcoholic liquor to minors within the immediately preceding five years.

(d) In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses or refuse to allow the director, any of the director's authorized agents or any law enforcement officer to inspect such list.

(e) Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder.

(f) Permit any employee of the licensee or permit holder who is under the age of 21 years to work on premises where alcoholic liquor is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over.

(g) Employ any person under 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor.

Sec. 11. K.S.A. 2012 Supp. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them; and (2) serve samples of alcoholic liquor free of charge for consumption by members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 12. K.S.A. 2012 Supp. 41-2640 is hereby amended to read as follows: 41-2640. (a) No club, drinking establishment, caterer or holder of a temporary permit, nor



any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;

(3) sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes; or

(5) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (4).

(b) No public venue, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person a drink or original container of alcoholic liquor or cereal malt beverage at a price that is less than the acquisition cost of the drink or original container of alcoholic liquor or cereal malt beverage to the licensee;

(3) sell or serve alcoholic liquor in glass containers to customers in the general admission area;

(4) sell or serve more than two drinks per customer at any one time in the general admission area;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes; or

(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (b)(1) through (5).

(c) A public venue club, drinking establishment, caterer or holder of a temporary permit may:

(1) Offer free food or entertainment at any time;

(2) sell or deliver wine by the bottle or carafe;

(3) sell, offer to sell and serve individual drinks at different prices throughout any day; ~~or~~

(4) sell or serve beer or cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces;

(5) offer samples of alcohol liquor free of charge as authorized by this act; or

(6) sell or serve margarita, sangria, daiquiri, mojito or other mixed alcoholic beverages as approved by the director in a pitcher containing not more than 64 fluid ounces; or

(d) any licensee located in a lottery gaming facility may offer customer self-service of wine from automated devices on the licensee's premises so long as the licensee monitors and has the ability to control the consumption of such wine from such automated devices and such consumption is monitored by video surveillance under the real-time review of the licensee's management and the Kansas racing and gaming commission.

(e) A hotel of which the entire premises is licensed as a drinking establishment

may, in accordance with rules and regulations adopted by the secretary, distribute to its guests coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel shall remit liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink served based on a price which is not less than the acquisition cost of the drink.

(f) A hotel of which the entire premises is not licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, through an agreement with one or more clubs or drinking establishments, distribute to its guests coupons redeemable at such clubs or drinking establishments for drinks containing alcoholic liquor. Each club or drinking establishment redeeming coupons issued by a hotel shall collect from the hotel the agreed price, which shall be not less than the acquisition cost of the drink plus the liquor drink tax for each drink served. The club or drinking establishment shall collect and remit the liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto.

~~(d)~~(g) Violation of any provision of this section is a misdemeanor punishable as provided by K.S.A. 41-2633, and amendments thereto.

~~(e)~~(h) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A. 41-2609, and amendments thereto, and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A. 41-2633a, and amendments thereto.

~~(f) Every licensed club and drinking establishment shall make available at any time upon request a price list showing the club's or drinking establishment's current prices per individual drink for all individual drinks.~~

Sec. 13. K.S.A. 2012 Supp. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them; and (2) serve samples of alcoholic liquor free of charge on the licensed premises for consumption by such members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

- (1) Be screened by the club for good moral character;
- (2) pay an annual membership fee of not less than \$10; and
- (3) wait for a period of 10 days after completion of the application form and payment of the membership fee.

(d) Notwithstanding the membership fee and waiting period requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(2) Any class B club located on property which is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this subsection (d)(3) shall present the temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall not be subject to the waiting period or fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel or RV resort whereby a guest who is registered at the hotel or RV resort and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and shall not be subject to the waiting period or dues requirement of this section. A club may enter into a written agreement with a hotel or RV resort pursuant to this provision only if: (A) The hotel or RV resort is located in the same county as the club; (B) there is no class B club located on the premises of the hotel or RV resort; and (C) no other club has entered into a written agreement with the hotel or RV resort pursuant to this section.

(5) Any class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons attending such races may file an application for temporary membership in such club for the day such person is attending such races, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(e) A licensee may store on its premises wine sold to a customer for consumption at

a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 14. K.S.A. 2012 Supp. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises which may be open to the public, and to serve samples of alcoholic liquor free of charge on licensed premises subject to the requirements of subsection (c), but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

~~(e)~~ (d) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

~~(f)~~ (e) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment/caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only

during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

~~(e)~~ (f) A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 15. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as follows: 41-2655. (a) A license for a public venue shall allow the licensee to:

(1) Offer for sale, sell and serve alcoholic liquor by the individual drink for consumption on the licensed premises;

(2) offer for sale, sell and serve unlimited drinks for a fixed price in designated areas of the licensed premises;

(3) offer for sale and sell all inclusive packages which include unlimited drinks in designated areas of the licensed premises;

(4) offer for sale, sell and serve alcoholic liquor in the original container for consumption on the licensed premises in private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier;

(5) store, in each private suite, which ~~are~~ is enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier, alcoholic liquor sold in the original container to a customer in that private suite; and

(6) with the approval of the retailer or distributor, return for a full refund of the original purchase price unopened containers of alcoholic liquor to the retailer or distributor from whom such items were purchased upon the conclusion of an event if the next scheduled event for that premises is more than 90 days from the date of the concluded event.

(b) An applicant or public venue licensee shall specify in the application for a license, or renewal of a license, the premises to be licensed. No public venue licensee may offer for sale, sell or serve any alcoholic liquor in any area not included in the licensed premises.

(c) The term "designated areas" for purposes of this section shall mean an area identified in the license application, which may include suites, that has controlled access and is separated from the general admission by a barrier.

(d) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(e) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(f) This section shall be a part of and supplemental to the club and drinking establishment act.

Sec. 16. K.S.A. 2012 Supp. 79-41a02 is hereby amended to read as follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment, public venue or temporary permit holder, and

upon the acquisition costs of any alcoholic liquor served as samples by clubs and drinking establishments.

(b) The tax imposed by this section shall be paid by the consumer to the club, caterer, drinking establishment, public venue or temporary permit holder and it shall be the duty of each and every club, caterer, drinking establishment, public venue or temporary permit holder subject to this section to collect from the consumer the full amount of such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each club, caterer, drinking establishment, public venue or temporary permit holder collecting the tax imposed hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the state department of revenue shall administer and enforce the collection of such tax.

(c) Any club or drinking establishment that serves free samples of alcoholic liquor shall remit the tax imposed by subsection (a) in the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the state department of revenue shall administer and enforce the payment of such tax.

New Sec. 17. (a) Alcoholic liquor and cereal malt beverage for the sampling as provided for in K.S.A. 41-2637, 41-2640, 41-2641 and 41-2642, and amendments thereto, shall be withdrawn from the inventory of the licensee. Except as provided by subsection (b), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(b) The holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a licensee's premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch or pour alcoholic beverages, make a presentation or answer questions at the tasting. Any alcoholic beverage or cereal malt beverages sampled under this subsection must be purchased from the licensee on whose premises the sampling is held. The licensee may not require the purchase of more alcoholic beverages or cereal malt beverages than is necessary for the tasting. This section does not authorize the supplier or its agent to withdraw or purchase an alcoholic beverage or cereal malt beverage from the holder of a distributor's license or provide an alcoholic beverage or cereal malt beverage for sampling on the licensee's premises that is not purchased from the licensee.

New Sec. 18. Each licensee licensed under this act who provides samples shall pay the drink tax imposed by K.S.A. 79-41a01 et seq., and amendments thereto, on the alcoholic liquor and cereal malt beverage inventory when the inventory is withdrawn from the licensee's stock based on the licensee's acquisition cost.

Sec. 19. K.S.A. 41-713 and 41-2610, and K.S.A. 2012 Supp. 41-104, 41-308d, 41-311, 41-354, 41-719, 41-2601, 41-2637, 41-2640, 41-2641, 41-2642, 41-2655 and 79-41a02 are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, by striking all in lines 1 through 3 and inserting "AN ACT concerning alcoholic beverages; amending K.S.A. 41-713 and 41-2610 and K.S.A. 2012 Supp. 41-104, 41-308d, 41-311, 41-354, 41-719, 41-2601, 41-2637, 41-2640, 41-2641, 41-2642, 41-2655 and 79-41a02 and repealing the existing sections.";

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

RALPH OSTMEYER  
 JAY SCOTT EMBLER  
 OLETHA FAUST-GOUDEAU  
*Conferees on part of Senate*

ARLEN SIEGFREID  
 STEVEN BRUNK  
 LOUIS RUIZ  
*Conferees on part of House*

Senator Ostmeyer moved the Senate adopt the Conference Committee Report on **S Sub for HB 2199**.

On roll call, the vote was: Yeas 29; Nays 10; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, LaTurner, Longbine, Lynn, Melcher, Olson, Ostmeyer, Pettey, Pilcher-Cook, Powell, V. Schmidt, Smith, Wagle, Wolf.

Nays: Apple, Arpke, King, Knox, Love, Masterson, O'Donnell, Petersen, Pyle, Tyson.  
 Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## ORIGINAL MOTION

Senator Arpke moved a substitute motion to send **S Sub for HB 2199** back to conference and appoint a new conference committee. Motion failed.

## EXPLANATION OF VOTE

Mr. Vice President: On the face of it, expanding alcohol consumption into the Capitol sounds like it may not be the best policy. However, with the understanding that it will only be used for official state functions, such as the sesquicentennial celebration and the official opening of the Capitol remodel, and that every instance must be approved in advance by the Legislative Coordinating Council, and that it will be used sparingly, I vote yes.—STEVE ABRAMS

Senators Donovan, Hawk and Olson request the record to show they concur with the "Explanation of Vote" offered by Senator Abrams on **HB 2199**.

## CONFERENCE COMMITTEE REPORT

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

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

On page 2, in line 18, by striking "on the premises"; in line 19, by striking "of" and inserting "in"; in line 29, by striking "Subject to provisions of subsection (b),"; in line 31, by striking "concealed"; also in line 31, after "handgun" by inserting "or other firearm concealed or unconcealed"; in line 32, after "any" by inserting "secure area of a"; also in line 32, after "premises" by inserting ", except those areas of such building

outside of a secure area and readily accessible to the public shall be subject to the provisions of subsection (b)";

On page 3, in line 1, after "of" by inserting "only"; following line 13, by inserting:

"(j) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution from this section for a period of four years only by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

(1) A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(2) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(3) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;

(4) an indigent health care clinic, as defined by K.S.A. 2012 Supp. 65-7402, and amendments thereto; or

(5) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

(k) The provisions of this section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.";

And by redesignating remaining subsections accordingly;

Also on page 3, in line 23, by striking "shall" and inserting "may"; in line 26, after "thereto" by inserting ", but does not include school districts"; in line 32, after "(5)" by inserting "(A)"; following line 36, by inserting:

"(B) On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the term "state and municipal building" shall not include the state capitol.";

Also on page 3, following line 40, by inserting:

"New Sec. 3. (a) A license issued under K.S.A. 75-7c01 et seq., and amendments thereto, shall authorize the licensee to carry a concealed handgun in the state capitol in accordance with the provisions of K.S.A. 75-7c01 et seq., and amendments thereto.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2014, unless the legislative coordinating council determines that on July 1, 2014, the state capitol does have adequate security measures, as that term is defined in section 2, and amendments thereto, to ensure that no weapons are permitted to be carried into the state capitol. Such determination shall be made on or after June 1, 2014, but no later than July 1, 2014.

(c) This section shall be a part of and supplemental to the personal and family protection act.";

On page 4, by striking all in lines 32 through 34;

And by redesignating remaining paragraphs accordingly;

On page 5, in line 30, by striking "or"; following line 30, by inserting:

"(8) law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or";

Also on page 5, in line 31, by striking "(8)" and inserting "(9)";



On page 7, in line 7, by striking "or"; in line 18, after "thereto" by inserting "; or  
 (3) law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C, to possess a firearm";

Also on page 7, in line 25, by striking "Facilities" and inserting "Buildings"; in line 26, by striking "facilities" and inserting "buildings"; in line 35, by striking "facilities" and inserting "buildings"; in line 36, by striking "facility" and inserting "building"; in line 37, by striking "facility" and inserting "building";

On page 19, in line 33, by striking "premises are" and inserting "building is"; in line 34, by striking "premises" and inserting "a building";

On page 20, in line 38, by striking "premises are" and inserting "building is"; in line 40, by striking "premises" and inserting "a building";

On page 21, by striking all in lines 22 through 30 and inserting:

"(c) (1) Any private entity which provides adequate security measures in a private building and which conspicuously posts signage in accordance with this section prohibiting the carrying of a concealed handgun in such building as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(2) Any private entity which does not provide adequate security measures in a private building and which allows the carrying of a concealed handgun as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(3) Nothing in this act shall be deemed to increase the liability of any private entity where liability would have existed under the personal and family protection act prior to the effective date of this act.

(d) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may permit any employee, who is licensed to carry a concealed handgun as authorized by the provisions of K.S.A. 75-7c01 et seq., and amendments thereto, to carry a concealed handgun in any building of such institution, if the employee meets such institution's own policy requirements regardless of whether such building is conspicuously posted in accordance with the provisions of this section:

(1) A unified school district;

(2) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto;

(3) a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(4) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(5) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; or

(6) an indigent health care clinic, as defined by K.S.A. 2012 Supp. 65-7402, and amendments thereto.";

And by redesignating remaining subsections accordingly;

Also on page 21, in line 33, by striking "premises are" and inserting "building is";

On page 22, following line 14, by inserting:

"(f) On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.";

And by redesignating remaining subsections accordingly;

Also on page 22, in line 24, by striking "premises" and inserting "a building";

MARY PILCHER-COOK

ELAINE BOWERS

LAURA KELLY

*Conferees on part of Senate*

ARLEN SIEGFREID

STEVE BRUNK

TOM HOLLAND

*Conferees on part of House*

Senator Ostmeyer moved the Senate adopt the Conference Committee Report on **S Sub for HB 2052**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Haley, Hensley, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Faust-Goudeau, Francisco, Hawk, Holland, Pettey, V. Schmidt, Wolf.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2105** submits the following report:

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

On page 67, in line 3, by striking "20%" and inserting "25%";

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

JULIA LYNN

SUSAN WAGLE

TOM HOLLAND

*Conferees on part of Senate*

MARVIN KLEEB

GENE SUELLENTROP

STAN FROWNELTER

*Conferees on part of House*

Senator Lynn moved the Senate adopt the Conference Committee Report on **Sub HB 2105**.

On roll call, the vote was: Yeas 27; Nays 12; Present and Passing 0; Absent or Not

Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, Knox, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, King, LaTurner, Petersen, Pettey, Tyson.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2253** submits the following report:

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

On page 5, following line 8, by inserting:

"New Sec. 10. (a) No person shall perform or induce an abortion or attempt to perform or induce an abortion with knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the unborn child.

(b) (1) A woman upon whom an abortion is performed or induced, or upon whom there is an attempt to perform or induce an abortion, in violation of this section, the father, if married to the woman at the time of the abortion, and the parents or custodial guardian of the woman, if the woman has not attained the age of 18 years at the time of the abortion, may in a civil action obtain appropriate relief, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct.

(2) Such relief shall include:

(A) Money damages for all injuries, psychological and physical, occasioned by the violation of this section;

(B) statutory damages equal to three times the cost of the abortion;

(C) injunctive relief; and

(D) reasonable attorney fees.

(c) A woman upon whom an abortion is performed shall not be prosecuted under this section for a conspiracy to violate this section pursuant to K.S.A. 2012 Supp. 21-5302, and amendments thereto.

(d) Nothing in this section shall be construed to create a right to an abortion. Notwithstanding any provision of this section, a person shall not perform an abortion that is prohibited by law.

(e) Upon a first conviction of a violation of this section, a person shall be guilty of a class A person misdemeanor. Upon a second or subsequent conviction of a violation of this section, a person shall be guilty of a severity level 10, person felony.

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

(g) For purposes of this section, the term "abortion" has the same meaning as such

term is defined in K.S.A. 65-6701, and amendments thereto.";

Also on page 5, in line 22, by striking "(b)"; following line 35, by inserting:

"(b) (1) For employers that have established a small employer health benefit plan after December 31, 1999, but prior to January 1, 2005, the amount of the credit allowed by subsection (a) shall be \$35 per month per eligible covered employee or 50% of the total amount paid by the employer during the taxable year, whichever is less, for the first two years of participation. In the third year, the credit shall be equal to 75% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fourth year, the credit shall be equal to 50% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fifth year, the credit shall be equal to 25% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. For the sixth and subsequent years, no credit shall be allowed.";

Also on page 5, in line 36, before "For" by inserting "(2)";

On page 6, in line 17, by striking "2004" and inserting "1999";

On page 28, in line 23, after "care" by inserting "when such expenses were paid or incurred for abortion coverage"; in line 24, after "thereto," by inserting "when such expenses were paid or incurred for abortion coverage"; in line 28, by striking "an itemized" and inserting "a";

On page 32, in line 16, after "care" by inserting "when such expenses were paid or incurred for abortion coverage"; in line 17, after "thereto," by inserting "when such expenses were paid or incurred for abortion coverage";

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

MARY PILCHER-COOK

ELAINE BOWERS

LAURA KELLY

*Conferees on part of Senate*

ARLEN SIEGFREID

STEVE BRUNK

LOUIS RUIZ

*Conferees on part of House*

Senator Pilcher-Cook moved the Senate adopt the Conference Committee Report on **HB 2253**.

On roll call, the vote was: Yeas 28; Nays 10; Present and Passing 1; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, V. Schmidt, Wolf.

Present and Passing: Emler.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 124** submits the following report:

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

On page 2, in line 13, by striking all before "an" and inserting "Except as otherwise provided in subsections (d) and (e), the Kansas restraint of trade act shall be construed in harmony with ruling judicial interpretations of federal antitrust law by the United States supreme court. If such judicial interpretations are in conflict with or inconsistent with the express provisions of subsection (c), the provisions of subsection (c) shall control.

(c) ";

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

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

- (1) Actions or proceedings concerning intrastate commerce;
- (2) actions or proceedings by indirect purchasers pursuant to K.S.A. 50-161, and amendments thereto;
- (3) recovery of damages pursuant to K.S.A. 50-161, and amendments thereto;
- (4) any remedy or penalty provided in the Kansas restraint of trade act, including, but not limited to, recovery of civil penalties pursuant to K.S.A. 50-160, and amendments thereto; and
- (5) any action or proceeding brought by the attorney general pursuant to authority provided in the Kansas restraint of trade act, or any other power or duty of the attorney general provided in such act.

(e)";

And by redesignating subsections accordingly;

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

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

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER  
 ROB BRUCHMAN  
 JANICE PAULS

*Conferees on part of House*

Senator King moved the Senate adopt the Conference Committee Report on **SB 124**.

On roll call, the vote was: Yeas 31; Nays 6; Present and Passing 2; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeier, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Pettey.

Present and Passing: Hawk, Kelly.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

Mr. Vice President: I vote no on **SB 124**. This bill will directly harm Kansas businesses that rely on the Kansas Restraint of Trade Act to ensure a level playing field in Kansas. It is hard for Kansas businesses, including family-owned and operated businesses, to compete with out-of-state and international companies. This bill will make it much, much harder. This bill radically changes the 100-year history of the KRTA and will put out a welcome mat for anticompetitive conduct in Kansas. It will make Kansas the only state in the entire country not to outlaw price fixing by competitors, which makes this anti-consumer. Kansas will be an outlier and the only state to invite anticompetitive conduct within its borders. The House limited full consideration damages to the very worst defendants: those who intentionally or willfully violate our antitrust statutes. SB 124, as amended by the Conference Committee, entirely eliminates full consideration of damages. This rewards the very worst offenders and eliminates a substantial deterrence against anticompetitive conduct in this State. These changes will substantially hurt the ability of the Kansas Attorney General to prosecute anticompetitive actions that harm Kansans or to recover for any anticompetitive actions in Kansas. For these reasons, I vote no.—ANTHONY HENSLEY

Senators Francisco and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on SB 124.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 129** submits the following report:

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

On page 1, by striking all in lines 7 through 34;

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

"Section 1. K.S.A. 16-207 is hereby amended to read as follows: 16-207. (a) Subject to the following provision, the parties to any bond, bill, promissory note or

other instrument of writing for the payment or forbearance of money may stipulate therein for interest receivable upon the amount of such bond, bill, note or other instrument of writing, at a rate not to exceed 15% per annum unless otherwise specifically authorized by law.

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

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

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

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

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

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

~~(a)~~ (e) The interest rates prescribed in ~~subsections (a) and (b) of this section~~ subsection (a) shall not apply to a business or agricultural loan. For the purpose of this section unless a loan is made primarily for personal, family or household purposes, the loan shall be considered a business or agricultural loan. For the purpose of this subsection, a business or agricultural loan shall include credit sales and notes secured by contracts for deed to real estate.

~~(f)~~ (f) Loans made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of

such individual participant, are not subject to the interest rates prescribed in ~~subsections (a) and (b) of this section~~ subsection (a).

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

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

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

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

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

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

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

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

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

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

Sec. 2. K.S.A. 16-207 and K.S.A. 16-207, as amended by 2013 Senate Bill No. 52 are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.":

On page 1, in the title in line 1, by striking all after "concerning"; by striking all in lines 2 and 3; in line 4, by striking all before the period and inserting "mortgage interest rates; amending K.S.A. 16-207 and repealing the existing section; also repealing K.S.A. 16-207, as amended by 2013 Senate Bill No. 52";

ROB OLSON  
JEFF LONGBINE  
TOM HAWK

*Conferees on part of Senate*



PETE DeGRAAF

JIM KELLY

STAN FROWNLETER

*Conferees on part of House*

Senator Olson moved the Senate adopt the Conference Committee Report on **SB 129**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Haley.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

#### **CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 187** submits the following report:

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

On page 26, following line 11, by inserting the following:

"Sec. 7. K.S.A. 2012 Supp. 2-224a is hereby amended to read as follows: 2-224a.

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

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

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

any other amounts otherwise required to be paid under the workers compensation act during the term of such contract.

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

Sec. 8. K.S.A. 2012 Supp. 44-510d is hereby amended to read as follows: 44-510d. (a) Where disability, partial in character but permanent in quality, results from the injury, the injured employee shall be entitled to the compensation provided in K.S.A. 44-510h and 44-510i, and amendments thereto. The injured employee may be entitled to payment of temporary total disability as defined in K.S.A. 44-510c, and amendments thereto, or temporary partial disability as defined in subsection (a)(1) of K.S.A. 44-510e, and amendments thereto, provided that the injured employee shall not be entitled to any other or further compensation for or during the first week following the injury unless such disability exists for three consecutive weeks, in which event compensation shall be paid for the first week. Thereafter compensation shall be paid for temporary total or temporary partial disability as provided in the following schedule,  $66\frac{2}{3}\%$  of the average weekly wages to be computed as provided in K.S.A. 44-511, and amendments thereto, except that in no case shall the weekly compensation be more than the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

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

- (1) For loss of a thumb, 60 weeks.
- (2) For the loss of a first finger, commonly called the index finger, 37 weeks.
- (3) For the loss of a second finger, 30 weeks.
- (4) For the loss of a third finger, 20 weeks.
- (5) For the loss of a fourth finger, commonly called the little finger, 15 weeks.
- (6) Loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of  $\frac{1}{2}$  of such thumb or finger, and the compensation shall be  $\frac{1}{2}$  of the amount specified above. The loss of the first phalange and any part of the second phalange of any finger, which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of  $\frac{2}{3}$  of such finger and the compensation shall be  $\frac{2}{3}$  of the amount specified above. The loss of the first phalange and any part of the second phalange of a thumb which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of the entire thumb. The loss of the first and second phalanges and any part of the third proximal phalange of any finger, shall be considered as the loss of the entire finger. Amputation through the joint shall be considered a loss to the next higher schedule.
- (7) For the loss of a great toe, 30 weeks.
- (8) For the loss of any toe other than the great toe, 10 weeks.
- (9) The loss of the first phalange of any toe shall be considered to be equal to the loss of  $\frac{1}{2}$  of such toe and the compensation shall be  $\frac{1}{2}$  of the amount above specified.
- (10) The loss of more than one phalange of a toe shall be considered to be equal to the loss of the entire toe.
- (11) For the loss of a hand, 150 weeks.
- (12) For the loss of a forearm, 200 weeks.
- (13) For the loss of an arm, excluding the shoulder joint, shoulder girdle, shoulder

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

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

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

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

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

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

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

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

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

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

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

(24) Where an injury results in the loss of or loss of use of more than one scheduled member within a single extremity, the functional impairment attributable to each

scheduled member shall be combined pursuant to the fourth edition of the American medical association guides for evaluation of permanent impairment until January 1, 2015, but for injuries occurring on and after January 1, 2015, shall be combined pursuant to the sixth edition of the American medical association guides to the evaluation of permanent impairment, and compensation awarded shall be calculated to the highest scheduled member actually impaired.

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

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

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

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

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

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

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

(2) (A) Permanent partial general disability exists when the employee is disabled in a manner which is partial in character and permanent in quality and which is not covered by the schedule in K.S.A. 44-510d, and amendments thereto. Compensation for

permanent partial general disability shall also be paid as provided in this section where an injury results in:

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

(ii) the loss of or loss of use of a leg, lower leg or foot of one lower extremity, combined with the loss of or loss of use of a leg, lower leg or foot of the other lower extremity; or

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

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

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

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

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

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

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

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

factors. Where the employee is engaged in post-injury employment for wages, there shall be a rebuttable presumption that the average weekly wage an injured worker is actually earning constitutes the post-injury average weekly wage that the employee is capable of earning. The presumption may be overcome by competent evidence.

(i) To establish post-injury wage loss, the employee must have the legal capacity to enter into a valid contract of employment. Wage loss caused by voluntary resignation or termination for cause shall in no way be construed to be caused by the injury.

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

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

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

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

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

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

(c) The total amount of compensation that may be allowed or awarded an injured

employee for all injuries received in any one accident shall in no event exceed the compensation which would be payable under the workers compensation act for 100% permanent total disability resulting from such accident.

(d) Where a minor employee or a minor employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim or cause of action against the employer shall inure or accrue to or exist in favor of the parent or parents of such minor employee on account of any damage resulting to such parent or parents on account of the loss of earnings or loss of service of such minor employee.

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

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

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

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

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

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

Notice may be given orally or in writing.

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

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

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

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

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

Sec. 12. K.S.A. 2012 Supp. 44-523 is hereby amended to read as follows: 44-523.

(a) The director, administrative law judge or board shall not be bound by technical rules of procedure, but shall give the parties reasonable opportunity to be heard and to present evidence, ~~insure~~ ensure the employee and the employer an expeditious hearing and act reasonably without partiality.

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

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

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

(3) on application for good cause shown.

(c) When all parties have submitted the case to an administrative law judge for an award, the administrative law judge shall issue an award within 30 days. The administrative law judge shall not stay a decision due to the absence of a submission letter. When the award is not entered in 30 days, any party to the action may notify the director that an award is not entered and the director shall assign the matter to an assistant director or to a special administrative law judge who shall enter an award



forthwith based on the evidence in the record, or the director, on the director's own motion, may remove the case from the administrative law judge who has not entered an award within 30 days following submission by the party and assign it to an assistant director or to a special administrative law judge for immediate decision based on the evidence in the record.

(d) Not less than 10 days prior to the first full hearing before an administrative law judge, the administrative law judge shall conduct a prehearing settlement conference for the purpose of obtaining stipulations from the parties, determining the issues and exploring the possibility that the parties may resolve those issues and reach a settlement prior to the first full hearing.

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

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

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

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

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

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

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

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

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

~~(4)~~ (5) In any affidavit filed pursuant to subsection (e)(2), the recital of previous rulings or decisions by the administrative law judge on legal issues or concerning prior motions for change of administrative law judge filed by counsel or such counsel's law firm, pursuant to this subsection, shall not be deemed legally sufficient for any ~~believe~~ belief that bias or prejudice exists.

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

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

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

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

Sec. 13. K.S.A. 2012 Supp. 44-532a is hereby amended to read as follows: 44-532a. (a) If an employer has no insurance or has an insufficient self-insurance bond or letter of credit to secure the payment of compensation ~~or has insufficiently funded a self-insurance bond~~, as provided in subsection (b)(1) and (2) of K.S.A. 44-532, and amendments thereto, and such employer is financially unable to pay compensation to an injured worker as required by the workers compensation act, or such employer cannot be located and required to pay such compensation, the injured worker may apply to the director for an award of the compensation benefits, including medical compensation, to

which such injured worker is entitled, to be paid from the workers compensation fund. Whenever a worker files an application under this section, the matter shall be assigned to an administrative law judge for hearing. If the administrative law judge is satisfied as to the existence of the conditions prescribed by this section, the administrative law judge may make an award, or modify an existing award, and prescribe the payments to be made from the workers compensation fund as provided in K.S.A. 44-569, and amendments thereto. The award shall be certified to the commissioner of insurance, and upon receipt thereof, the commissioner of insurance shall cause payment to be made to the worker in accordance therewith.

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

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

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

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

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

~~(e)~~ (d) Any civil penalty imposed by this section shall be recovered, by the assistant attorney general upon information received from the director, by issuing and serving upon such employer a summary order or statement of the charges with respect thereto and a hearing shall be conducted thereon in accordance with the provisions of the Kansas administrative procedure act, except that, at the discretion of the director, such

civil penalties may be assessed as costs in a workers compensation proceeding by an administrative law judge upon a showing by the assistant attorney general that a required report was not filed which pertains to a claim pending before the administrative law judge.

Sec. 15. K.S.A. 2012 Supp. 44-575 is hereby amended to read as follows: 44-575.

(a) As used in K.S.A. 44-575 through 44-580, and amendments thereto, "state agency" means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the university of Kansas hospital authority, any political subdivision of the state or the district court with regard to district court officers or employees whose total salary is payable by counties.

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

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

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

the fiscal year in which the state workers compensation self-insurance fund first became liable to make such payments.

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

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

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

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

(3) procedures for identifying and controlling workplace hazards;

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

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

Sec. 16. K.S.A. 2012 Supp. 44-577 is hereby amended to read as follows: 44-577.

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

(b) The secretary of ~~administration~~ health and environment shall investigate, or cause to be investigated, each claim for compensation against the state workers compensation self-insurance fund. For the purposes of such investigations, the secretary of ~~administration~~ health and environment is authorized to obtain expert medical advice regarding the injuries, occupational diseases and disabilities involved in such claims. If, based upon such investigation and any other available information, the secretary of ~~administration~~ health and environment finds that there is no material dispute as to any issue involved in the claim, that the claim is valid and that the claim should be settled by agreement, the secretary of ~~administration~~ health and environment may proceed to enter into such an agreement with the claimant, for the state workers compensation self-

insurance fund. Any such agreement may provide for lump-sum settlements subject to approval by the director and all such agreements shall be filed in the office of the director for approval as provided in K.S.A. 44-527, and amendments thereto. All other claims for compensation against such fund shall be paid in accordance with the workers compensation act pursuant to final awards or orders of an administrative law judge or the board or pursuant to orders and findings of the director under the workers compensation act.

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

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

And by renumbering sections accordingly;

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

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

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

JULIA LYNN  
SUSAN WAGLE  
TOM HOLLAND

*Conferees on part of Senate*

MARVIN KLEEB  
GENE SUELLENTROP  
STAN FROWNFELTER

*Conferees on part of House*

Senator Lynn moved the Senate adopt the Conference Committee Report on **SB 187**.

On roll call, the vote was: Yeas 29; Nays 10; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher,

O'Donnell, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Petersen, Pettey, V. Schmidt.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2015** submits the following report:

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

On page 2, following line 10, by inserting:

"New Sec. 3. (a) On and after July 1, 2015, notwithstanding any other law to the contrary, for any order of support required to be paid through the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 2012 Supp. 39-7,135, and amendments thereto, regardless of when such order was entered or modified, amounts collected by such central unit shall be distributed in accordance with rules and regulations adopted by the secretary of the department for children and families. Such rules and regulations shall be based on child support distribution requirements as set forth in part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, and federal regulations promulgated pursuant thereto.

(b) Prior to July 1, 2015, the secretary of the department for children and families shall adopt rules and regulations to implement the provisions of this section. Such rules and regulations shall not become effective until July 1, 2015.

New Sec. 4. (a) Except as otherwise provided in this section, an income withholding order for attachment of a lump sum payment shall have the effect of attaching: (1) Any intangible property, funds, credits or other indebtedness of a non-recurring nature belonging or owing to the obligor which is due from the payor or in the possession or under the control of the payor at the time of service of the order; and (2) all such personal property becoming due to the obligor between the time the order is served on the payor and the 35<sup>th</sup> day after the date the order is served.

(b) The payor shall hold the attached funds, credits or indebtedness at least 14 days following the date the income withholding order for attachment of a lump sum payment was served. Thereafter, except as otherwise provided in this section, the payor shall remit the amount attached no later than the date the lump sum payment would have been paid to the obligor or 21 days after the date the order was served, whichever is later.

(c) The payor shall hold the attached funds, credits or indebtedness until further order of the court if, before remitting funds pursuant to subsection (b), the payor receives notice of a hearing on the obligor's claim of exemption concerning the income withholding order for attachment of a lump sum payment.

(d) This section shall be part of and supplemental to the income withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto.

New Sec. 5. (a) Immediately following the date the income withholding order for attachment of a lump sum payment is served on the payor, the person or public office seeking the withholding shall send a notice to the obligor, notifying the obligor: (1) That

an income withholding order to attach a lump sum payment has been served on the payor and the effect of such order; (2) of the obligor's right to assert any claim of exemption allowed under the income withholding act; and (3) of the obligor's right to a hearing on such claim. The notice shall be substantially in compliance with the form developed pursuant to K.S.A. 2012 Supp. 23-3113, and amendments thereto, and shall contain a description of the exemptions that are applicable under the income withholding act and the procedure by which the obligor can assert any claim of exemption.

(b) If the obligor requests a hearing to assert any claim of exemption, the request shall be filed no later than 10 days following the date the notice is served on the obligor. If a hearing is requested, the hearing shall be held by the court no sooner than five days nor later than 10 days after the request is filed. At the time the request for hearing is filed, the obligor shall obtain from the clerk of the court the date and time for the hearing which shall be noted on the request form. Immediately after the request for hearing is filed, the obligor shall hand-deliver or mail, by first-class mail, a copy of the request for hearing to the payor and to the person or public office seeking the withholding or such person's attorney, if the person is represented by an attorney.

(c) If a hearing is held, the obligor shall have the burden of proof to show that some or all of the property subject to the withholding is exempt, and the court shall enter an order determining the exemption and such other order as is appropriate.

(d) This section shall be part of and supplemental to the income withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto.

New Sec. 6. (a) (1) The secretary of the department for children and families may collect, pursuant to the income withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, support owed in a title IV-D case from unemployment insurance benefits payable to the obligor. Such collections may be remitted directly to the secretary. The secretary, and any other agency affected, shall use electronic processes to the greatest extent feasible.

(2) All provisions of the income withholding act shall apply to the withholding of support from unemployment insurance benefits from the state employment security agency, which shall be considered a payor for the purposes of the income withholding act, except that any cost recovery fee as a result of such withholding shall be paid by the department for children and families and shall not be paid by the obligor.

(b) If the secretary of the department for children and families receives an income withholding collection directly from another state agency for a debtor with more than one income withholding order and the payor agency does not identify the amount to be applied to each withholding order, the secretary may apply the collection in any manner allowed under title IV-D, provided that all current support due for the month under the withholding orders is satisfied first.

(c) This section shall be part of and supplemental to the income withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto.

Sec. 7. K.S.A. 2012 Supp. 23-3102 is hereby amended to read as follows: 23-3102. As used in the income withholding act:

(a) "Arrearage" means the total amount of unpaid support which is due and unpaid under an order for support, based upon the due date specified in the order for support or, if no specific date is stated in the order, the last day of the month in which the payment is to be made. If the order for support includes a judgment for reimbursement, an



arrearage equal to or greater than the amount of support payable for one month exists on the date the order for support is entered.

(b) "Business day" means a day on which state offices in Kansas are open for regular business.

(c) "Health benefit plan" means any benefit plan, other than public assistance, which is able to provide hospital, surgical, medical, dental or any other health care or benefits for a child, whether through insurance or otherwise, and which is available through a parent's employment or other group plan.

(d) "Income" means any form of ~~periodic~~ payment to an individual, regardless of source, including, but not limited to, wages, salary, trust, royalty, commission, bonus, compensation as an independent contractor, annuity and retirement benefits, workers compensation and any other periodic payments made by any person, private entity or federal, state or local government or any agency or instrumentality thereof. "Income" does not include: (1) Any amounts required by law to be withheld, other than creditor claims, including but not limited to federal and state taxes, social security tax and other retirement and disability contributions; (2) any amounts exempted by federal law; (3) public assistance payments; and (4) unemployment insurance benefits except to the extent otherwise provided by law. Any other state or local laws which limit or exempt income or the amount or percentage of income that can be withheld shall not apply. Workers compensation shall be considered income only for the purposes of child support and not for the purposes of maintenance. Unemployment insurance benefits shall be considered income for purposes of this act when such funds are sought by the secretary of the department for children and families, or the secretary's designee, in administration of the title IV-D program.

(e) "Income withholding agency" means the department for children and families.

~~(e)~~ (f) "Income withholding order" means an order issued under this act which requires a payor to withhold income to satisfy an order for support or to defray an arrearage.

(g) "Lump sum payment" means income in the form of a bonus, commission, an amount paid in lieu of vacation or other leave time, or any other payment to an obligor. "Lump sum payment" does not include payments made on regular paydays as compensation, reimbursement of expenses incurred by the obligor on behalf of the payor, or an amount paid as severance pay on termination of employment.

~~(f)~~ (h) "Medical child support order" means an order requiring a parent to provide coverage for a child under a health benefit plan and, where the context requires, may include an order requiring a payor to enroll a child in a health benefit plan.

~~(g)~~ (i) "Medical withholding order" means an income withholding order which requires an employer, sponsor or other administrator of a health benefit plan to enroll a child under the health coverage of a parent.

~~(h)~~ (j) "Nonparticipating parent" means, if one parent is a participating parent as defined in this section, the other parent.

~~(i)~~ (k) "Obligee" means the person or entity to whom a duty of support is owed.

~~(j)~~ (l) "Obligor" means any person who owes a duty to make payments or provide health benefit coverage under an order for support.

~~(k)~~ (m) "Order for support" means any order of a court, or of an administrative agency authorized by law to issue such an order, which provides for payment of funds for the support of a child, or for maintenance of a spouse or ex-spouse, and includes an

order which provides for modification or resumption of a previously existing order; payment of uninsured medical expenses; payment of an arrearage accrued under a previously existing order; a reimbursement order, including, but not limited to, an order established pursuant to K.S.A. 39-718a or 39-718b, and amendments thereto; an order established pursuant to K.S.A. 23-451 et seq., and amendments thereto; or a medical child support order.

(+) (n) "Participating parent" means a parent who is eligible for single coverage under a health benefit plan as defined in this section, regardless of the type of coverage actually in effect, if any.

(+) (o) "Payor" means any person or entity owing income to an obligor or any self-employed obligor and includes, with respect to a medical child support order, the sponsor or administrator of a health benefit plan.

(p) "Periodic payment" means wages, salary, royalties, trust payments, annuity payments, retirement payments and any other regularly occurring, scheduled payment to an obligor.

(+) (q) "Public office" means any elected or appointed official of the state or any political subdivision or agency of the state, or any subcontractor thereof, who is or may become responsible by law for enforcement of, or who is or may become authorized to enforce, an order for support, including but not limited to the department of social and rehabilitation services, court trustees, county or district attorneys and other subcontractors.

(+) (r) "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), and amendments thereto, as in effect on December 31, ~~1999~~ 2009. "Title IV-D cases" means those cases required by title IV-D to be processed by the department of ~~social and rehabilitation services for children and families~~ under the state's plan for providing title IV-D services.

Sec. 8. K.S.A. 2012 Supp. 23-3103 is hereby amended to read as follows: 23-3103. (a) Any new or modified order for support shall include a provision for the withholding of income to enforce the order for support.

(b) Except as otherwise provided in subsection (j), (k) or (+) (m), all new or modified orders for support shall provide for immediate issuance of an income withholding order. The income withholding order shall be issued regardless of whether a payor subject to the jurisdiction of this state can be identified at the time the order for support is entered. The income withholding order shall be issued without further notice to the obligor and shall specify ~~an amount sufficient to satisfy the order for support and to defray any arrearage. The income withholding order shall be issued regardless of whether a payor subject to the jurisdiction of this state can be identified at the time the order for support is entered.~~

(1) If the income withholding order is to attach to periodic payments, an amount sufficient to satisfy the order for support and to defray any arrearage; or

(2) if the income withholding order is to attach a lump sum payment, the amount the payor is required to withhold for support from the lump sum payment.

(c) Except as otherwise provided in this subsection or subsections (j) or (+) (m), if no income withholding order is in effect to enforce the support order, an income withholding order shall be issued by the court upon request of the obligee or public office, provided that the obligor accrued an arrearage equal to or greater than the amount of support payable for one month and the requirements of subsections (d) and

(h) have been met. The income withholding order shall be issued without further notice to the obligor and shall specify an amount sufficient to satisfy the order for support and to defray any arrearage. The income withholding order shall be issued regardless of whether a payor subject to the jurisdiction of this state can be identified at the time the income withholding order is issued.

(d) Not less than seven days after the obligee or public office has served a notice pursuant to subsection (h), the obligee or public office may initiate income withholding pursuant to paragraph (1) or (2).

(1) The obligee or public office may apply for an income withholding order by filing with the court an affidavit stating: (A) The date that the notice was served on the obligor and the manner of service; (B) that the obligor has not filed a motion to stay issuance of the income withholding order or, if a motion to stay has been filed, the reason an income withholding order must be issued immediately; (C) a specified amount to be withheld by the payor to satisfy the order of support and to defray any arrearage; (D) whether the income withholding order is to include a medical withholding order; and (E) that the amount of the arrearage as of the date the notice to the obligor was prepared was equal to or greater than the amount of support payable for one month. In addition to any other penalty provided by law, the filing of such an affidavit with knowledge of the falsity of a material declaration is punishable as a contempt.

Upon the filing of the affidavit, the income withholding order shall be issued without further notice to the obligor, hearing or amendments of the support order. Payment of all or part of the arrearage before issuance of the income withholding order shall not prevent issuance of the income withholding order, unless the arrearage is paid in full and the order for support does not include an amount for the current support of a person. No affidavit is required if the court, upon hearing a motion to stay issuance of the income withholding order or otherwise, issues an income withholding order.

(2) In a title IV-D case, the IV-D agency may issue an income withholding order as authorized by K.S.A. 39-7,147, and amendments thereto. Any such income withholding order shall be considered an income withholding order issued pursuant to this act.

(e) (1) An income withholding order shall be directed to any payor of the obligor. Notwithstanding any other requirement of this act as to form or content, ~~any only an~~ income withholding order prepared in a standard format prescribed by the secretary of ~~social and rehabilitation services~~ the department for children and families, or the standard federal notices and forms promulgated under 42 U.S.C. § 652 (a)(11) and 42 U.S.C. § 666 (b)(A)(ii), shall be deemed to be in compliance with this act.

(2) An income withholding order which does not include a medical withholding order shall require the payor to withhold from any income due, or to become due, to the obligor a specified amount sufficient to satisfy the order of support and to defray any arrearage and shall include notice of and direction to comply with the provisions of K.S.A. 2012 Supp. 23-3104 and 23-3105, and amendments thereto.

(3) An income withholding order which consists only of a medical withholding order shall include notice of the medical child support order and shall conform to the requirements of K.S.A. 2012 Supp. 23-3116, and amendments thereto. The medical withholding order shall include notice of and direction to comply with the requirements of K.S.A. 2012 Supp. 23-3104, 23-3105, 23-3114 and 23-3117, and amendments thereto.

(4) An income withholding order which includes both a medical withholding order and an income withholding order for cash support shall meet the requirements of paragraphs (2) and (3).

(f) (1) Upon written request and without the requirement of further notice to the obligor, the clerk of the district court shall cause a copy of the income withholding order to be served on the payor ~~only by personal service or registered mail, return receipt requested by first-class mail.~~

(2) Without the requirement of further notice to the obligor, the court trustee or IV-D agency may cause a copy of any income withholding order to be served on the payor ~~only by personal service or registered mail, return receipt requested by first-class mail~~ or by any alternate method acceptable to the payor, including, but not limited to: Facsimile transmission, electronic mail attachment or electronic interface allowing for the download of a document or transmission of the terms of the income withholding order. No payor shall be liable to any person solely because of the method of service accepted by the payor.

(3) As used in this section, "copy of the income withholding order" means a copy of any document or notice, regardless of copy format, that advises the payor of the same general duties, requires the same amount to be withheld from income and requires medical withholding to the same extent as the original income withholding order that complies with the requirements of subsection (e)(1).

(g) An income withholding order shall be binding on any existing or future payor on whom a copy of the order is served and shall require the continued withholding of income from each periodic payment of income until further order of the court or agency that issued the income withholding order. At any time following issuance of an income withholding order, a copy of the income withholding order may be served on any payor without the requirement of further notice to the obligor.

(h) Except as provided in subsection (k) or ~~(j)~~ (m), at any time following entry of an order for support the obligee or public office may serve upon the obligor a written notice of intent to initiate income withholding. If any notice in the court record indicates that title IV-D services are being provided in the case, whether or not the IV-D services include enforcement of current support, the person or public office requesting issuance of the income withholding order shall obtain the consent of the IV-D agency to the terms of the proposed income withholding order.

The notice of intent to initiate income withholding shall be served on the obligor ~~only~~ by personal service, first-class mail or registered mail, return receipt requested. The notice served on the obligor must state: (1) The terms of the order of support and the total arrearage as of the date the notice was prepared; (2) the amount of income that will be withheld, not including premiums to satisfy a medical withholding order; (3) whether a medical withholding order will be included; (4) that the provision for withholding applies to any current or subsequent payor; (5) the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact concerning the amount of the support order, the amount of the arrearage, the amount of income to be withheld or the proper identity of the obligor; (6) the period within which the obligor must act to stay issuance of the income withholding order and that failure to take such action within the specified time will result in payors' being ordered to begin withholding; and (7) the action which will be taken if the obligor contests the withholding.

The obligor may, at any time, waive in writing the notice required by this subsection.

(i) On request of an obligor, the court shall issue an income withholding order which shall be honored by a payor regardless of whether there is an arrearage. Nothing in this subsection shall limit the right of the obligee to request modification of the income withholding order.

(j) (1) In a nontitle IV-D case, upon presentation to the court of a written agreement between the parties providing for an alternative arrangement, no income withholding order shall be issued pursuant to subsection (b). In any case, before entry of a new or modified order for support, a party may request that no income withholding order be issued pursuant to subsection (b) if notice of the request has been served on all interested parties and: (A) The party demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or (B) a written agreement among all interested parties provides for an alternative arrangement. If child support and maintenance payments are both made to an obligee by the same obligor, and if the court has determined that good cause has been shown that direct child support payments to the obligee may be made, then the court shall provide for direct maintenance payments to the obligee and no income withholding order shall be issued pursuant to subsection (b). In a title IV-D case, the determination that there is good cause not to require immediate income withholding must include a finding that immediate income withholding would not be in the child's best interests and, if an obligor's existing obligation is being modified, proof of timely payment of previously ordered support.

(2) Notwithstanding the provisions of subsection (j)(1), the court shall issue an income withholding order when an affidavit pursuant to subsection (d) is filed if an arrearage exists in an amount equal to or greater than the amount of support payable for one month.

(3) If a notice pursuant to subsection (h) has been served in a title IV-D case, there is no arrearage or the arrearage is less than the amount of support payable for one month, and the obligor files a motion to stay issuance of the income withholding order based upon the court's previous finding of good cause not to require immediate income withholding pursuant to subsection (j)(1), the obligor must demonstrate the continued existence of good cause. Unless the court again finds that good cause not to require immediate income withholding exists, the court shall issue the income withholding order.

(4) If a notice pursuant to subsection (h) has been served in a title IV-D case, there is no arrearage or the arrearage is less than the amount of support payable for one month, and the obligor files a motion to stay issuance of an income withholding order based upon a previous agreement of the interested parties for an alternative arrangement pursuant to subsection (j)(1), the court shall issue an income withholding order, notwithstanding any previous agreement, if the court finds that:

- (A) The agreement was not in writing;
- (B) the agreement was not approved by all interested parties;
- (C) the terms of the agreement or alternative arrangement are not being met;
- (D) the agreement or alternative arrangement is not in the best interests of the child;

or

(E) the agreement or alternative arrangement places an unnecessary burden upon the obligor, obligee or a public office.

(5) The procedures and requirements of K.S.A. 2012 Supp. 23-3106, and

amendments thereto, apply to any motion pursuant to paragraph (3) or (4) of this subsection.

(k) (1) An ex parte interlocutory order for support may be enforced pursuant to subsection (b) only if the obligor has consented to the income withholding in writing.

(2) An ex parte interlocutory order for support may be enforced pursuant to subsection (c) only if 14 or more days have elapsed since the order for support was served on the obligor.

(3) Any other interlocutory order for support may be enforced by income withholding pursuant to this act in the same manner as a final order for support.

(4) No bond shall be required for the issuance of an income withholding order to enforce an interlocutory order pursuant to this act.

(l) All remittances from any income withholding order, regardless of when such order was entered or modified, shall be required to be directed to the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 2012 Supp. 39-7,135, and amendments thereto.

~~(h)~~ (m) All new or modified orders for maintenance of a spouse or ex-spouse, except orders for a spouse or ex-spouse living with a child for whom an order of support is also being enforced, entered on or after July 1, 1992, shall include a provision for the withholding of income to enforce the order of support. Unless the parties consent in writing to earlier issuance of a withholding order, withholding shall take effect only after there is an arrearage in an amount equal to or greater than the amount of support payable for two months and after service of a notice as provided in subsection (h).

Sec. 9. K.S.A. 2012 Supp. 23-3104 is hereby amended to read as follows: 23-3104.

(a) It shall be the affirmative duty of any payor to respond within 10 days to written or electronic requests for information presented by the public office concerning: (1) The full name of the obligor; (2) the current address of the obligor; (3) the obligor's social security number; (4) the obligor's work location; (5) the number of the obligor's claimed dependents; (6) the obligor's gross income; (7) the obligor's net income; (8) an itemized statement of deductions from the obligor's income; (9) the obligor's pay schedule; (10) the obligor's health insurance coverage; and (11) whether or not income owed the obligor is being withheld pursuant to this act. This is an exclusive list of the information that the payor is required to provide under this section.

(b) It shall be the duty of any payor who has been served a copy of an income withholding order for payment of an order for cash support that meets the requirements of subsection ~~(h)~~ (i) to deduct and pay over income as provided in this section. The payor shall begin the required deductions no later than the next payment of income due the obligor after 14 days following service of the order on the payor.

(c) Within seven business days of the time the obligor is normally paid, the payor shall pay the amount withheld as directed by the income withholding agency pursuant to K.S.A. 2012 Supp. 23-3105, and amendments thereto, as directed by the income withholding order or by a rule of the Kansas supreme court. The payor shall identify each payment with the name of the obligor, the county and case number of the income withholding order, and the date the income was withheld from the obligor. The payor shall pay the amounts withheld and identify each payment in the same business day. A payor subject to more than one income withholding order payable to the same payee may combine the amounts withheld into a single payment, but only if the amount attributable to each income withholding order is clearly identified. Premiums required

for a child's coverage under a health benefit plan shall be remitted as provided in the health benefit plan and shall not be combined with any other support payment required by the income withholding order.

(d) The payor shall continue to withhold income as required by the income withholding order until further order of the court or agency.

(e) From income due the obligor, the payor may withhold and retain to defray the payor's costs a cost recovery fee of \$5 for each pay period for which ~~income support~~ is withheld ~~from a periodic payment~~ or \$10 for each month for which ~~income support~~ is withheld ~~from a periodic payment~~, whichever is less. For income withholding from a lump sum payment, a cost recovery fee of up to \$10 per withholding may be withheld by the payor and shall be in addition to any cost recovery fee charged for withholding from periodic payments. Any such cost recovery fee shall be in addition to the amount withheld as support.

(f) The entire sum withheld by the payor, including the cost recovery fee and premiums due from the obligor which are incurred solely because of a medical withholding order, shall not exceed ~~the limits provided for under section 303(b)~~ 50% of the obligor's disposable income as defined by section 302(b) of the consumer credit protection act (15 U.S.C. § 1673(b)) 1672(b). If amounts of earnings required to be withheld exceed the maximum amount of earnings which may be withheld ~~according to the consumer credit protection act under this section~~, priority shall be given to payment of current and past due support, and the payor shall promptly notify the holder of the limited power of attorney of any nonpayment of premium for a health benefit plan on the child's behalf. An income withholding order issued pursuant to this act shall not be considered a wage garnishment as defined in subsection (b) of K.S.A. 60-2310, and amendments thereto. If amounts of earnings required to be withheld in accordance with this act are less than the maximum amount of earnings which could be withheld according to section 303(b) of the consumer credit protection act, 15 U.S.C. § 1673(b), the payor shall honor garnishments filed by other creditors to the extent that the total amount taken from earnings does not exceed consumer credit protection act limitations.

(g) A payor who has been served an income withholding order by the IV-D agency which includes an amount to defray an arrearage shall contact the IV-D agency no less than 14 days prior to making payment of any lump sum amount to the obligor. The payor may make payment of the lump sum to the obligor once 14 days have passed after providing such contact unless additional process, or notice of intended process, has been received.

~~(g)~~ (h) The payor shall promptly notify the court or agency that issued the income withholding order of the termination of the obligor's employment or other source of income, or the layoff of the obligor from employment, and provide the obligor's last known address and the name and address of the individual's current employer, if known.

~~(h)~~ (i) A payor who complies with a copy of an income withholding order that is regular on its face shall not be subject to civil liability to any person or agency for conduct in compliance with the income withholding order. As used in this section, "regular on its face" means a completed document ~~in the standard format for any income withholding notice that has been adopted by the United States secretary of health and human services in a final rule or a certified copy of the income withholding order that is in compliance with subsection (e)(1) of K.S.A. 2012 Supp. 23-3103, and amendments thereto.~~

(j) Except as provided further, if any payor violates the provisions of this act, the court may enter a judgment against the payor for the total amount which should have been withheld and paid over. If the payor, without just cause or excuse, fails to pay over income within the time established in subsection (c) and the obligee files a motion to have such income paid over, the court shall enter a judgment against the payor and in favor of the obligee for three times the amount of the income owed and reasonable attorney fees. If the payor, without good cause, fails to pay over the income and identify each payment in the same business day, the court shall enter a judgment against the payor and in favor of the obligee for twice the amount of the cost recovery fee, as established in subsection (e), per obligor.

(k) In addition to any judgment authorized by subsection (i), a payor shall be subject to a civil penalty not exceeding \$500 and other equitable relief as the court considers proper if the payor: (1) Discharges, refuses to employ or takes disciplinary action against an obligor subject to an income withholding order because of such withholding and the obligations or additional obligations which it imposes upon the payor; or (2) fails to withhold support from income or to pay such amounts in the manner required by this act.

(l) The provisions of this section as amended by this act shall apply to all income withheld on or after July 1, 2013, regardless of when the applicable income withholding order was entered or modified.

Sec. 10. K.S.A. 2012 Supp. 23-3105 is hereby amended to read as follows: 23-3105. (a) An income withholding order shall have priority over any other legal process under state law against the same income. Withholding of income under this section shall be made without regard to any prior or subsequent garnishments, attachments, wage assignments or other claims of creditors.

(b) Except as provided by K.S.A. 60-2310, and amendments thereto, any state law which limits or exempts income from legal process or the amount or percentage of income that can be withheld shall not apply to withholding income under this act.

(c) Subject to the provisions of K.S.A. 2012 Supp. 23-36,503, and amendments thereto, if more than one income withholding order requires withholding from the same source of income of a single obligor, the payor shall withhold and disburse as ordered the total amount required by all income withholding orders if such amount does not exceed the limits of subsection (f) of K.S.A. 2012 Supp. 23-3104, and amendments thereto, ~~as shown in the withholding order which specifies the highest percentage of income allowed to be withheld.~~ If the total amount required by all income withholding orders, including premiums due from the obligor which are incurred solely because of a medical withholding order, exceeds such limits, the payor shall withhold the amount permitted to be withheld under such limits and from the amount withheld the payor shall retain any cost recovery fee charged by the payor. The remaining funds shall first be prorated by the payor among all income withholding orders for the obligor that require payment of current support. When all current support for the month has been satisfied, any remaining funds shall be prorated among all income withholding orders for the obligor that require payment of an amount for arrearages. With respect to a medical withholding order, the payor shall promptly notify the affected holder of the limited power of attorney of any nonpayment of premium. The payor may request assistance from the income withholding agency in determining the amount to be disbursed for each income withholding order, but such assistance shall not relieve the



payor from any responsibility under this act. Upon request of a public office or of any obligee whose income withholding order is affected by this subsection, the payor shall provide the county, case number and terms of all the obligor's income withholding orders.

(d) The provisions of this section as amended by this act shall apply to all income withheld on or after July 1, ~~1992~~ 2012, regardless of when the applicable income withholding order was entered or modified.

Sec. 11. K.S.A. 2012 Supp. 39-7,147 is hereby amended to read as follows: 39-7,147. (a) Except as otherwise provided in K.S.A. 39-7,149 or K.S.A. 2012 Supp. 23-3103, and amendments thereto, if no income withholding order is in effect to enforce a support order in a title IV-D case, an income withholding order may be entered by the secretary. A notice of intent to initiate income withholding, as described in K.S.A. 2012 Supp. 23-3103, and amendments thereto, shall be served on the responsible parent at least seven days before the secretary issues the income withholding order. If the amount of arrearages is less than the amount of current support due for one month, the requirements of subsection (d) must be met. The income withholding order shall conform to the requirements of the income withholding act, and amendments thereto and shall have the same force and effect as an income withholding order issued by a district court of this state.

(b) If an income withholding order is issued by the secretary to enforce a support order entered by a court of this state, the original document shall be delivered for filing to the clerk of the court that entered the support order. Thereafter, if the secretary is no longer providing title IV-D services in the case, the clerk of the district court shall use the income withholding order issued by the secretary in the same manner as an income withholding order issued by the court.

(c) If an income withholding order is issued by the secretary to enforce a support order entered by a tribunal of another state, the secretary shall transmit a copy of the income withholding order to the tribunal of the other state.

(d) If there are no arrearages or the amount of arrearages under the support order is less than the amount of current support due for one month, the secretary may initiate income withholding only if:

- (1) Any arrearages are owed;
- (2) a medical child support order exists;
- (3) the secretary determines that immediate issuance of the income withholding order was required by K.S.A. 2012 Supp. 23-3103, and amendments thereto, or by a similar law of another state, but no income withholding order was entered;
- (4) the responsible parent consents;
- (5) required payments have been received after the due date at least twice within the preceding 12 months, regardless of whether any arrearages are owed; or
- (6) the support order was entered by a tribunal of another state.

(e) If the support order was entered by or registered with a court of this state, the notice of intent to initiate income withholding shall be served on the responsible parent by ~~only~~ personal service, first-class mail or registered mail, return receipt requested. In all other cases, the notice of intent to initiate income withholding shall be served upon the responsible parent only by personal service or registered mail, return receipt requested.

Sec. 12. K.S.A. 39-7,148 is hereby amended to read as follows: 39-7,148. (a) At

any time after issuing an income withholding order, the secretary shall: (1) Modify or terminate the income withholding order because of a modification or termination of the underlying support order; (2) modify the amount of income withheld to reflect payment in full of the arrearages; (3) modify or terminate the income withholding order to reflect the final order in a fair hearing pursuant to K.S.A. 75-3306, and amendments thereto; or (4) modify, or when appropriate terminate, an income withholding order consisting in whole or in part of a medical withholding order because of a modification or termination of the underlying medical child support order.

(b) In addition to modifications required by subsection (a), at any time the secretary may issue a modified income withholding order: (1) To change the amount to be withheld to defray arrearages; or (2) to conform the terms of a medical withholding order to the requirements of a payer. The provisions of this subsection shall apply only to income withholding orders issued pursuant to K.S.A. 39-7,147, and amendments thereto, including any modifications of such orders.

(c) The secretary shall provide notice of any proposed modification to the responsible parent by ~~only~~ personal service, first-class mail or registered mail, return receipt requested, at least 14 days before entry of the modified income withholding order. The responsible parent may request: (1) An administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, for review of the proposed modification by complying with procedures established by the secretary within ten days after service of the notice; or (2) a de novo court review pursuant to K.S.A. 39-7,139, and amendments thereto. If the notice is served by mail, the time for requesting review shall be extended by three days. If the proposed modification increases the total amount to be withheld from the responsible parent's income, entry of the modified income withholding order shall be stayed pending resolution of the review. In all other instances, entry of the proposed modification shall be stayed only for cause. The issues in the administrative hearing shall be limited to whether the amount of current support is as stated in the proposed modification and whether the total arrearages are less than the proposed installment to defray arrearages.

(d) The responsible parent may request that the secretary terminate an income withholding order for cash support if: (1) Withholding has not previously been terminated and reinitiated; and (2) there is a written agreement among the parties that provides for an alternative arrangement. If an income withholding order is terminated and the obligor subsequently accrues any arrearages, the secretary may issue another income withholding order as provided in K.S.A. 39-7,147, and amendments thereto.

(e) If the income withholding order includes both a medical withholding order and an income withholding order for cash support, modification or termination of one portion of the income withholding order shall not modify or terminate any other portion of the income withholding order except as expressly provided in the order.

(f) The provisions of K.S.A. 39-7,147, and amendments thereto, relating to transmitting income withholding orders to the tribunal that issued the underlying support order, shall apply to any order issued modifying or terminating income withholding that is issued pursuant to this section.";

And by redesignating sections accordingly;

On page 2, in line 11, after "K.S.A." by inserting "39-7,148 and K.S.A."; also in line 11, by striking the first "and" and inserting a comma; also in line 11, after "23-2704" by inserting ", 23-3102, 23-3103, 23-3104, 23-3105 and 39-7,147";

On page 1, in the title, in line 2, after "process;" by inserting "enforcement of support orders;"; also in line 2, after "K.S.A." by inserting "39-7,148 and K.S.A."; in line 3, by striking the first "and" and inserting a comma; also in line 3, after "23-2704" by inserting ", 23-3102, 23-3103, 23-3104, 23-3105 and 39-7,147";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE PAULS

*Conferees on part of House*

Senator King moved the Senate adopt the Conference Committee Report on **HB 2015**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettet, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Haley.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2183** submits the following report:

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

On page 2, in line 26, after "be" by inserting "medically"; also in line 26, after "necessary" by inserting "and reasonable"; in line 39, after "in" by inserting "K.S.A. 65-116a and 65-128 made by"; by striking all in lines 41 and 42 and inserting:

"Sec. 4. K.S.A. 65-157 is hereby amended to read as follows: 65-157. The analysis of all waters required in the rules and regulations shall be made by the office of laboratory services of the department of health and environment and the fees collected under the provisions of this act by the secretary of health and environment shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund office of laboratory services operating fund.

Sec. 5. K.S.A. 65-1,109a is hereby amended to read as follows: 65-1,109a. (a) The secretary of health and environment may adopt rules and regulations establishing: (1) Procedures and qualifications for certification of laboratories performing analyses

required pursuant to K.S.A. 65-161 et seq., 65-171d, 65-3001 et seq., 65-3401 et seq. or 65-3430 et seq. or K.S.A. 65-3452a et seq. or 65-34,105 et seq., and amendments thereto; and (2) a schedule of fees to defray all or part of the costs of administering the certification program. Such fees shall not be refundable. Failure to pay assessed fees shall be cause for denial of certification.

(b) Any person who violates any provision of the rules and regulations adopted under this act shall, after notice and hearing in accordance with the Kansas administrative procedure act, be subject to suspension, denial or revocation of any certification granted hereunder and a civil penalty not to exceed \$500. Each day a violation continues shall be deemed a separate violation.

(c) The secretary of health and environment shall remit all moneys received from fees or penalties pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund office of laboratory services operating fund.

Sec. 6. K.S.A. 75-5608 is hereby amended to read as follows: 75-5608. (a) There is hereby established under the supervision of the secretary of health and environment, an office of laboratory services. The office of laboratory services shall provide laboratory information and perform laboratory tests and experiments as directed by the secretary of health and environment and shall exercise such other powers, duties and functions as the secretary of health and environment may direct.

(b) The secretary may adopt rules and regulations for the collection and biological or chemical analysis of samples received by the office of laboratory services. The secretary, by adoption of rules and regulations, may fix fees for any biological or chemical analysis services provided by the office of laboratory services and waive any such fees whenever the secretary finds that waiver is in the interest of protecting the public health and safety. The secretary shall waive fees for such services provided to public health departments and state hospitals. Fees charged and collected shall not exceed the actual cost of the analysis and testing provided by the office of laboratory services.

(c) Fees collected under this section shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the office of laboratory services operating fund.

New Sec. 7. (a) There is hereby created in the state treasury the office of laboratory services operating fund. Expenditures from the office of laboratory services operating fund shall be used by the department of health and environment only for the purposes of operating the office of laboratory services. All such expenditures from the office of laboratory services operating fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

(b) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the office of laboratory services operating fund interest earnings based on:

(1) The average daily balance of moneys in the office of laboratory services operating fund, for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 8. K.S.A. 2012 Supp. 65-6821 is hereby amended to read as follows: 65-6821. ~~(a)~~ K.S.A. 2012 Supp. 65-6821 through 65-6834 and section 20, and amendments thereto, shall be known and may be cited as the Kansas health information technology and exchange act.

~~(b)~~ This section shall take effect on and after July 1, 2011.

Sec. 9. K.S.A. 2012 Supp. 65-6822 is hereby amended to read as follows: 65-6822. As used in the Kansas health information technology and exchange act:

(a) "Act" means the Kansas health information technology and exchange act.

(b) "Approved ~~HO~~ health information organization" means a health information organization operating in the state ~~which has been approved by the corporation under a valid certificate of authority issued by the department.~~

(c) "~~Corporation~~" means the Kansas health information exchange, inc., created by executive order 10-06. "Authorization" means a document that permits a covered entity to use or disclose protected health information for purposes other than to carry out treatment, payment or health care operations, and that complies with the requirements of 45 C.F.R. § 164.508.

(d) "~~Covered entity~~" means a health care provider, a health care component of a hybrid entity, a health plan or a health care clearinghouse a covered entity as the term is defined in 45 C.F.R. § 160.103.

(e) "~~Designated record set~~" means designated record set as that term is defined by the HIPAA privacy rule. "Department" means the Kansas department of health and environment.

(f) "Disclosure" means disclosure as that term is defined by the HIPAA privacy rule.

(g) "~~DPOA-HC~~" means the person to whom a durable power of attorney for health care decisions has been granted by an individual in accordance with K.S.A. 58-625 et seq., and amendments thereto.

(h) "~~Electronic protected health information~~" means electronic health information as that term is defined by the HIPAA privacy rule.

(i) "Health care" means health care as that term is defined by the HIPAA privacy rule.

(j) "~~Health care clearinghouse~~" means a health care clearinghouse, as that term is defined by the HIPAA privacy rule, doing business within the state.

~~(k)(h)~~ "Health care provider" means a health care provider, as that term is defined by the HIPAA privacy rule, ~~that furnishes health care to individuals in the state.~~

~~(i)~~ "Health information" means health information as that term is defined by the HIPAA privacy rule.

~~(m)(i)~~ "Health information organization" means any entity operating in the state which:

(1) Maintains technical infrastructure for the electronic movement of health information among covered entities; and

(2) promulgates and enforces policies governing participation in such sharing of health information exchange.

~~(n)(k)~~ "Health information technology" means an information processing application using computer hardware and software for the storage, retrieval, use and

disclosure of health information for communication, decision-making, quality, safety and efficiency of health care. "Health information technology" includes, but is not limited to: (1) An electronic health record; (2) a personal health record; (3) the sharing of health information—exchange electronically; (4) electronic order entry; and (5) electronic decision support.

~~(e)~~ "Health plan" means a health plan, as that term is defined by the HIPAA privacy rule, ~~doing business within the state.~~

~~(f)~~(l) "HIPAA privacy rule" means the privacy rule of the administrative simplification subtitle of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. part 160 and 45 C.F.R. part 164, subparts A and E.

~~(g)~~ "Hybrid entity" means hybrid entity as that term is defined by the HIPAA privacy rule.

~~(h)~~(m) "Individual" means individual as that term is defined by the HIPAA privacy rule.

~~(i)~~(n) "Individually identifiable health information" means individually identifiable health information as that term is defined by the HIPAA privacy rule.

~~(j)~~ "Interoperability" means the capacity of two or more information systems to exchange information or data in an accurate, effective, secure and consistent manner.

~~(k)~~(o) "Participation agreement" means a written agreement between a covered entity and an approved ~~HIO~~ health information organization concerning the covered entity's participation in the approved ~~HIO~~ health information organization on terms consistent with K.S.A. 2012 Supp. 65-6832, and amendments thereto.

~~(l)~~(p) "Personal representative" means the person who has the legal authority to act on behalf of an individual.

~~(m)~~(q) "Protected health information" means protected health information as that term is defined by the HIPAA privacy rule.

~~(n)~~ "Public health authority" means public health authority as that term is defined by the HIPAA privacy rule.

~~(o)~~(r) "Secretary" means the secretary of health and environment.

~~(p)~~ "Standard authorization form" means the standard authorization form developed and promulgated by the secretary pursuant to K.S.A. 2012 Supp. 65-6826, and amendments thereto.

~~(aa)~~(s) "State" means the state of Kansas.

~~(bb)~~(t) "Use" means, with respect to individually identifiable health information, use as the term is defined by the HIPAA privacy rule.

~~This section shall take effect on and after July 1, 2011.~~

Sec. 10. K.S.A. 2012 Supp. 65-6823 is hereby amended to read as follows: 65-6823. ~~(a)~~ It is the purpose of this act to harmonize state law with the HIPAA privacy rule with respect to individual access to protected health information, proper safeguarding of protected health information, and the use and disclosure of protected health information for purposes of facilitating the development and use of health information technology and ~~health information exchange~~ the sharing of health information electronically.

~~(b)~~ ~~This section shall take effect on and after July 1, 2011.~~

Sec. 11. K.S.A. 2012 Supp. 65-6824 is hereby amended to read as follows: 65-6824. (a) A covered entity shall provide an individual or such individual's personal

representative with access to the individual's protected health information maintained ~~by the, collected, used or disseminated by or for the~~ covered entity ~~in a designated record set~~ in compliance with 45 C.F.R. § 164.524.

(b) A covered entity shall implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. § 164.530(c).

~~(c) This section shall take effect on and after July 1, 2011.~~

Sec. 12. K.S.A. 2012 Supp. 65-6825 is hereby amended to read as follows: 65-6825. (a) No covered entity shall use or disclose protected health information except as follows:

(1) ~~Use and disclosure of protected health information~~ In a manner consistent with an authorization that satisfies the requirements of 45 C.F.R. § 164.508;

(2) ~~use and disclosure of protected health information without an authorization in a manner~~ as permitted under 45 C.F.R. §§ 164.502, 164.506, 164.508, 164.510 and 164.512; or

(3) ~~use and disclosure of protected health information in a manner~~ as required under 45 C.F.R. § 164.502.

~~(b) Notwithstanding the provisions of subsection (a), no covered entity shall disclose an individual's protected health information to a health information organization for any purpose without an authorization that satisfies the requirements of 45 C.F.R. § 164.508, unless A covered entity may disclose an individual's protected health information to a health information organization without an authorization if such covered entity:~~

~~(1) Is a party to a current participation agreement with an approved HIO~~ health information organization at the time the disclosure is made;

~~(2) discloses the individual's protected health information to that approved HIO~~ health information organization in a manner consistent with the ~~approved HIO's~~ established procedures of the approved health information organization; and

~~(3) prior to the disclosure, has furnished~~ furnishes to the individual, or such individual's personal representative, whose information is to be disclosed to the ~~approved HIO~~ health information organization, the notice required under K.S.A. 2012 Supp. 65-6832, and amendments thereto; ~~and~~

~~(4) restricts disclosure to the approved HIO of any protected health information concerning the individual that is the subject of a written request delivered to the covered entity by the individual, or such individual's personal representative, for reasonable restrictions on disclosure of all or any specified categories of the individual's protected health information, as defined pursuant to K.S.A. 2012 Supp. 65-6832, and amendments thereto, following the covered entity's receipt of such written request.~~

~~(c) Notwithstanding the provisions of subsections (a) and (b),~~ A covered entity that uses or discloses protected health information in compliance with this section shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

~~(d) This section shall take effect on and after July 1, 2011.~~

Sec. 13. K.S.A. 2012 Supp. 65-6828 is hereby amended to read as follows: 65-6828. To the extent any provision of state law regarding the confidentiality, privacy, security or privileged status of any protected health information conflicts with is contrary to, or more stringent than the provisions of this act, the provisions of this act

shall control, except that: (a) Nothing in this act shall limit or restrict the effect and application of the peer review statute, K.S.A. 65-4915, and amendments thereto; the risk management statute, K.S.A. 65-4921 through 65-4930, and amendments thereto; or any statutory health care provider-patient evidentiary privilege applicable to a judicial or administrative proceeding; and

(b) nothing in this act shall limit or restrict the ability of any state agency to require the disclosure of protected health information by any person or entity pursuant to law.

Sec. 14. K.S.A. 2012 Supp. 65-6829 is hereby amended to read as follows: 65-6829. ~~(a) A health care provider~~ covered entity may disclose protected health information without authorization to any state agency for any public health purpose that is required by law. Nothing in this act shall be construed to limit the use, transfer or disclosure of protected health information as required or permitted by any other provision of law for public health purposes.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 15. K.S.A. 2012 Supp. 65-6830 is hereby amended to read as follows: 65-6830. ~~(a) The corporation department~~ shall establish and revise, as appropriate, standards for the approval and operation of statewide and regional health information organizations operating in the state as approved ~~HIOs~~ health information organizations including, but not limited to, the following:

~~(a) Satisfaction of certification standards for health information exchanges promulgated by the federal government;~~

~~(b)(1)~~ Adherence to nationally recognized standards for interoperability, that is, the capacity of two or more information systems to share information or data in an accurate, effective, secure and consistent manner;

~~(c)(2)~~ adoption and adherence to rules promulgated by the corporation department regarding access to and use and disclosure of protected health information maintained by or on an approved HIO health information organization;

~~(d)(3)~~ demonstration of adequate financial resources to sustain continued operations in compliance with the standards;

~~(e)(4)~~ participation in outreach activities for individuals and covered entities;

~~(f)(5)~~ conduct of operations in a transparent manner to promote consumer confidence;

~~(g)(6)~~ implementation of security breach notification procedures; and

~~(h)(7)~~ development of procedures for entering into and enforcing the terms of participation agreements with covered entities which satisfy the requirements established by the corporation department pursuant to K.S.A. 2012 Supp. 65-6832, and amendments thereto.

(b) The department shall ensure that approved health information organizations operate within the state in a manner consistent with the protection of the security and privacy of health information of the citizens of Kansas.

(c) No expenditure shall be made from the state general fund for the purposes of administration, operation or oversight of the health information organizations defined in K.S.A. 65-6821, and amendments thereto, except that the secretary of health and environment may make operational expenditures for the purpose of adopting and administering the rules and regulations necessary to implement the Kansas health information technology act.

~~This section shall take effect on and after July 1, 2011.~~



Sec. 16. K.S.A. 2012 Supp. 65-6831 is hereby amended to read as follows: 65-6831. ~~(a)~~ The ~~corporation~~ department shall establish and implement:

~~(1)(a)~~ (a) A process by which a health information ~~exchange organization~~ may apply for and receive ~~approval~~ a certificate of authority issued by the corporation department by demonstrating compliance with the standards promulgated by the ~~corporation department~~ department pursuant to K.S.A. 2012 Supp. 65-6830, and amendments thereto;

~~(2)(b)~~ (b) a process by which an approved ~~HIO~~ health information organization shall be re-approved on appropriate intervals by demonstrating continued compliance with the standards promulgated by the ~~corporation department~~ department pursuant to K.S.A. 2012 Supp. 65-6830, and amendments thereto; and

~~(3)(c)~~ (c) a process for the investigation of reported concerns and complaints regarding an approved ~~HIO~~ health information organization and imposition of appropriate remedial and proactive measures to address any identified deficiencies.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 17. K.S.A. 2012 Supp. 65-6832 is hereby amended to read as follows: 65-6832. ~~(a)~~ The ~~corporation department~~ shall establish requirements ~~for participation agreements to be used by approved health information organizations in participation agreements with covered entities and shall~~ include the following:

~~(1)(a)~~ (a) Specification of procedures ~~for the covered entity to disclose by which an individual's protected health information to the approved HIO will be disclosed by covered entities, will be collected by approved health information organizations and will be shared with other participating covered entities and with the department as required by law for public health purposes;~~

~~(2)(b)~~ (b) specification of procedures ~~for the covered entity to access an individual's protected health information from the approved HIO by which an individual may elect that protected health information be restricted from disclosure by approved health information organizations to covered entities;~~

~~(3)(c)~~ (c) specifications of purposes for, and procedures by which a covered entity can access an individual's protected health information from the approved health information organization, including access to restricted information by a covered entity in an emergency situation when necessary to properly treat the individual;

~~(d)~~ (d) specification of the written notice to be provided by the covered entity to any individual, or such individual's personal representative, ~~prior to the covered entity's disclosure of the individual's protected health information to the approved HIO that explains how and what protected health information will be shared with the approved health information organization.~~ Such written notice, which may be incorporated into the covered entity's notice of privacy practices required under the HIPAA privacy rule, shall include the following that:

~~(A)(1)~~ (1) The individual's protected health information will be disclosed to the approved ~~HIO~~ health information organization to facilitate the provision of health care to the individual;

~~(B)(2)~~ (2) the approved ~~HIO~~ health information organization maintains appropriate safeguards to protect the privacy and security of protected health information;

~~(C)(3)~~ (3) only authorized individuals may access protected health information from the approved ~~HIO~~ health information organization;

~~(D)(4)~~ (4) the individual, or such individual's personal representative, has the right to request in writing that ~~the covered entity:~~ (i) ~~Not disclose any of the individual's~~

protected health information to the approved HIO; or (ii) not disclose specified categories of the individual's protected health information to the approved HIO the individual's protected health information not be disclosed by the health information organization;

~~(E)(5) such restrictions may result in a health care provider not having access to information necessary to provide appropriate care for the individual;~~

~~(F) the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, not to disclose any of the individual's protected health information to an approved HIO; and~~

~~(G) the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, for reasonable restrictions on the disclosure of specified categories of the individual's protected health information to an approved HIO. the health information organization is required to honor a written request not to disclose an individual's protected health information, except that disclosure is permitted (A) in an emergency situation when necessary to properly treat the individual, or (B) when necessary to satisfy a covered entity's legal obligation to report certain information to a government official; and~~

~~(6) the inability to access restricted information by a covered entity may result in a health care provider not having access to information necessary to provide appropriate care for the individual;~~

~~(4)(c) specification of documentation requirements to demonstrate delivery of such notice to an individual, or such individual's personal representative, by or on behalf of the covered entity prior to the covered entity's disclosure of the individual's protected health information to the approved HIO;~~

~~(5) standards for determining the reasonableness of an individual's written request, or the written request of such individual's personal representative, not to disclose specified categories of the individual's protected health information to the approved HIO based on the covered entity's technological capabilities; and~~

~~(6) specification of the purposes for which a covered entity may access protected health information through the approved HIO.~~

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 18. K.S.A. 2012 Supp. 65-6833 is hereby amended to read as follows: 65-6833. ~~(a)~~ Any health information organization which is not an approved ~~HIO~~ health information organization shall not be eligible for any financial support from the state, or assistance or support from the state in securing any other source of funding.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 19. K.S.A. 2012 Supp. 65-6834 is hereby amended to read as follows: 65-6834. (a) ~~Notwithstanding any other provision of this act,~~ No use or disclosure of protected health information maintained by or on an approved ~~HIO~~ health information organization shall be made except pursuant to rules and regulations adopted by the ~~corporation department~~ consistent with this act. An approved ~~HIO~~ health information organization that uses or discloses protected health information in compliance with such rules shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

~~(b) This section shall take effect on and after July 1, 2011. Protected health information in the possession of an approved health information organization shall not be subject to discovery, subpoena or other means of legal compulsion for the release of~~

such— protected health information to any person or entity. An approved health information organization shall not be compelled by a request for production, subpoena, court order or otherwise, to disclose protected health information relating to an individual.

New Sec. 20. (a) There is hereby established an advisory council on health information technology. The advisory council on health information technology shall be advisory to the secretary of health and environment and shall be within the division of health of the department of health and environment.

(b) The advisory council on health information technology shall be composed of 23 voting members, as follows:

(1) The secretary of the Kansas department of health and environment, or such secretary's designee;

(2) the governor of the state of Kansas, or such governor's designee;

(3) four legislators selected as follows: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate;

(4) two members appointed by the secretary who represent consumers;

(5) one member appointed by the secretary who represents employers;

(6) one member appointed by the secretary who represents payers;

(7) one member appointed by the secretary who represents local health departments from a list of three names submitted by the Kansas association of local health departments;

(8) three members appointed by the secretary who represent hospitals, from a list of three names for each position submitted by the Kansas hospital association. One of the hospital representatives appointed herein shall be involved in the administration of a critical access hospital;

(9) three members appointed by the secretary from a list of three names for each position by the Kansas medical society. At least two of the members appointed herein shall be practicing physicians, and one of the physicians shall be a physician in a primary care specialty;

(10) two members appointed by the secretary who represent pharmacists, from a list of three names submitted by the Kansas pharmacists association. At least one of the members appointed herein shall be a practicing pharmacist;

(11) one member appointed by the secretary who represents the university of Kansas center for health information from a list of three names submitted by the university of Kansas center for health information;

(12) one member appointed by the secretary who represents the Kansas foundation for medical care from a list of three names submitted by the Kansas foundation for medical care;

(13) one member appointed by the secretary who represents the Kansas optometric association from a list of three names submitted by the Kansas optometric association; and

(14) one member appointed by the secretary who represents the association of community mental health centers of Kansas from a list of three names submitted by the association of community mental health centers of Kansas.

(c) At the first meeting of the council, following the effective date of this act, terms

of its members, except the secretary and governor or their designees, shall be determined by lot with five members serving for one year, five members serving for two years, five members serving for three years, and six members serving for four years. Following their initial term, members of the council shall be eligible for re-appointment and, if re-appointed, shall serve for terms of four years. Members shall only be eligible to serve two consecutive four-year terms. Whenever a vacancy occurs regarding a member of the council due to the resignation, death, removal or expiration of a term, a new member shall be appointed prior to the next meeting, according to the process and to the specific position on the council as provided in subsection (b). In the event of a vacancy during an unexpired term due to resignation, death or removal of a council member, the appointment shall be for the remainder of the unexpired portion of the term. Each member of the council shall hold office for the term of appointment and until a successor has been appointed. Any member of the council may be removed by the secretary for malfeasance or misfeasance in office, regularly failing to attend meetings, or for any cause which renders the member incapable of the discharge of the duties of a member.

(d) The council shall meet at least four times per year and at such times as the council deems appropriate or as called by the secretary.

(e) Members of the council are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto. Members of the council attending council meetings or subcommittee meetings authorized by the council shall be paid mileage and all other applicable expenses, provided such expenses are consistent with policies established from time-to-time by the council.

Sec. 21. K.S.A. 2012 Supp. 28-115 is hereby amended to read as follows: 28-115.

(a) The register of deeds of each county shall charge and collect the following fees:

For recording deeds, mortgages or other instruments

of writing, for first page, not to exceed legal size  
 page—8½" x 14 .....\$6.00

For second page and each additional page or fraction

thereof .....2.00

Recording town plats, for each page ..... 20.00

Recording release or assignment of real estate mortgage .....5.00

Certificate, certifying any instrument on record .....1.00

Acknowledgment of a signature ..... .50

For filing notices of tax liens under the internal revenue

laws of the United States .....5.00

For filing releases of tax liens, certificates of discharge,

under the internal revenue laws of the United States

or the revenue laws of the state of Kansas .....5.00

(b) In addition to the fees required to be charged and collected pursuant to subsection (a), the register of deeds shall charge and collect an additional fee of \$2 per page for recording:

(1) The first page of any deeds, mortgages or other instruments of writing, not to exceed legal size—8½" x 14";

(2) the second page and each additional page or fraction of any deeds, mortgages or instruments of writing; and

(3) a release or assignment of real estate mortgage.

Any fees collected pursuant to this subsection shall be paid by the register of deeds to the county treasurer. The county treasurer shall deposit such funds in the register of deeds technology fund as provided by K.S.A. 2012 Supp. 28-115a, and amendments thereto.

(c) For any filing or service provided for in the uniform commercial code, the amount therein provided, shall be charged and collected. No fee shall be charged or collected for any filing made by the secretary of health and environment or the secretary's designee pursuant to K.S.A 39-709, and amendments thereto.

(d) If the name or names of the signer or signers or any notary public to any instrument to be recorded are not plainly typed or printed under the signatures affixed to the instrument, the register of deeds shall charge and collect a fee of \$1 in addition to all other fees provided in this section.

(e) If sufficient space is not provided for the necessary recording information and certification on a document, such recording information shall be placed on an added sheet and such sheet shall be counted as a page. The document shall be of sufficient legibility so as to produce a clear and legible reproduction thereof. If a document is judged not to be of sufficient legibility so as to produce a clear and legible reproduction, such document shall be accompanied by an exact copy thereof which shall be of sufficient legibility so as to produce a clear and legible reproduction thereof and which shall be recorded contemporaneously with the document and shall be counted as additional pages. The register of deeds may reject any document which is not of sufficient legibility so as to produce a clear and legible reproduction thereof.

(f) Any document which was filed on or after January 1, 1989, which was of a size print or type smaller than 8-point type but which otherwise was properly filed shall be deemed to be validly filed.

(g) All fees required to be collected pursuant to this section, except those charged for the filing of liens and releases of tax liens under the internal revenue laws of the United States, shall be due and payable before the register of deeds shall be required to do the work. If the register of deeds fails to collect any of the fees provided in this section, the amount of the fees at the end of each quarter shall be deducted from the register's salary.

(h) Except as otherwise provided by subsection (b), all fees required to be collected pursuant to this section shall be paid by the register of deeds to the county treasurer and deposited into the general fund of the county.

Sec. 22. K.S.A. 39-702 is hereby amended to read as follows: 39-702. The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

(a) "Secretary" means the secretary ~~of social and rehabilitation services for children and families, unless otherwise specified.~~

(b) "Applicants" means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) "Social welfare service" may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) "Assistance" includes such items or functions as the giving or providing of money, food stamps or coupons, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific, and the providing of institutional care, which may be necessary or helpful to the recipient in providing the necessities of life for the recipient and the recipient's dependents. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) "Aid to families with dependent children" means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative with whom any dependent child is living.

(f) "Medical assistance" means the payment of all or part of the cost of necessary: (1) Medical, remedial, rehabilitative or preventive care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the secretary; and (2) transportation to obtain care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) "Dependent children" means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program or are full-time students in a program of vocational or technical training if they may be reasonably expected to complete the training before attaining age 19, who have been deprived of parental or guardian support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent or guardian, and who are living with any blood relative, including those of the half-blood, and including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home. The secretary may adopt rules and regulations which extend the deprivation requirement under this definition to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The term "dependent children" also includes children who would meet the foregoing requirements except for their removal from the home of a relative as a result of judicial determination to the effect that continuation

therein would be contrary to the welfare of such children, for whose placement and care the secretary is responsible, who have been placed in a foster family home or child care institution as a result of such determination and who received aid to dependent children in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified above within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month such child had been living with and removed from the home of such a relative and application had been made therefor.

(h) "The blind" means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) "General assistance" means financial assistance in which the cost of such financial assistance is not participated in by the federal government. General assistance may be limited to transitional assistance in some instances as specified by rules and regulations adopted by the secretary.

(j) "Recipient" means a person who has received assistance under the terms of this act.

(k) "Intake office" means the place where the secretary shall maintain an office for receiving applications.

(l) "Adequate consideration" means consideration equal, or reasonably proportioned to the value of that for which it is given.

(m) "Transitional assistance" means a form of general assistance in which as little financial assistance as one payment may be made during each period of 12 consecutive calendar months to an eligible and needy person and all other persons for whom such person is legally responsible.

(n) "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. § 651; et seq.), ~~or acts amendatory thereof or supplemental thereto~~ as in effect on May 1, 1997.

Sec. 23. K.S.A. 2012 Supp. 39-709 is hereby amended to read as follows: 39-709.

(a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the ~~department of social and rehabilitation~~

~~services Kansas department for children and families~~ under which federal moneys are expended, the secretary ~~of social and rehabilitation services for children and families~~ shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(c) *Aid to families with dependent children; assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving aid to families with dependent children, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(d) *Eligibility requirements for general assistance, the cost of which is not shared by the federal government.* (1) General assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d).

(A) To qualify for general assistance in any form a needy person must have



insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must be a citizen of the United States or an alien lawfully admitted to the United States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d), but who do not meet the criteria prescribed by rules and regulations of the secretary relating to inability to engage in employment or are not a member of a family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this subsection (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the

provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, "public assistance" includes, but is not

limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.* (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303, ~~and amendments thereto,~~ of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in

which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is (A) a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both, and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection (g). The secretary is authorized to enforce each claim provided for under this subsection (g). The secretary shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary from claims under this subsection (g) shall be deposited in the social welfare fund. The secretary may adopt rules and regulations for

the implementation and administration of the medical assistance recovery program under this subsection (g).

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) ~~The secretary of social and rehabilitation services of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien. This lien is for payments of medical assistance made by the department of social and rehabilitation services to the recipient who is an inpatient in a nursing home or other medical institution.~~

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home, ~~nursing homes~~ or other medical institution shall constitute a determination by the ~~department of social and rehabilitation services~~ department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance

paid by the department of social and rehabilitation services after the expiration of six months from the date the recipient became eligible for compensated inpatient care at a nursing home, nursing homes or other medical institution department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- (A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary or the secretary's designee;
- (B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or
- (C) the value of the real property is consumed by the lien, at which time the secretary or the secretary's designee may force the sale for the real property to satisfy the lien; ~~or~~

~~(D) after a lien is filed against the real property, it will be dissolved if the recipient leaves the nursing or medical facility and resides in the property to which the lien is attached for a period of more than 90 days without being readmitted as an inpatient to a nursing or medical facility, even though there may have been no reasonable expectation that this would occur. If the recipient is readmitted to a nursing or medical facility during this period, and does return home after being released, another 90 days must be completed before the lien can be dissolved.~~

(7) ~~If the secretary of social and rehabilitation for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the~~

lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the ~~secretary of social and rehabilitation services for children and families~~ secretary pays for the expenses of care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations which penalty shall progress to ineligibility for the family after three months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps, the applicant or

recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

Sec. 24. K.S.A. 58-3957 is hereby amended to read as follows: 58-3957. (a) (1) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

(2) The department of health and environment may claim an interest in any property paid or delivered to the administrator if the deceased owner of such property received medical assistance under K.S.A. 39-709, and amendments thereto, except that such claim shall not exceed the amount of medical assistance received by the deceased owner.

(3) The administrator may hold a hearing on the claim in accordance with the provisions of the Kansas administrative procedure act. The decision resulting from any hearing shall be a public record.

(b) The administrator shall consider each claim within 90 days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(c) If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by K.S.A. 58-3954, and amendments thereto. Interest reported under the previous disposition of unclaimed property act shall not be computed, paid or delivered to the claimant after enactment of this act. If the claim is for property presumed abandoned under K.S.A. 58-3943, and amendments thereto, which was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.



(d) Any holder who pays the owner for property that has been delivered to the state and which, if claimed from the administrator, would be subject to subsection (c) shall add any additional amount as provided in K.S.A. 58-3954, and amendments thereto. The additional amount shall be repaid to the holder by the administrator in the same manner as the principal.

Sec. 25. K.S.A. 39-702, 58-3957, 65-116a, 65-128, 65-157, 65-1,109a, 75-5607 and 75-5608 and K.S.A. 2012 Supp. 28-115, 39-709, 65-129a, 65-6821, 65-6822, 65-6823, 65-6824, 65-6825, 65-6826, 65-6827, 65-6828, 65-6829, 65-6830, 65-6831, 65-6832, 65-6833 and 65-6834 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "the department of health and environment; relating to"; in line 2, by striking all after the semicolon; by striking all in lines 3 and 4 and inserting "concerning the office of laboratory services; creating the office of laboratory services operating fund and providing for certain fees and deposits to such fund; concerning health information technology; relating to the medical assistance recovery program; amending K.S.A. 39-702, 58-3957, 65-116a, 65-128, 65-157, 65-1,109a and 75-5608 and K.S.A. 2012 Supp. 28-115, 39-709, 65-6821, 65-6822, 65-6823, 65-6824, 65-6825, 65-6826, 65-6827, 65-6828, 65-6829, 65-6830, 65-6831, 65-6832, 65-6833 and 65-6834 and repealing the existing sections; also repealing K.S.A. 75-5607 and K.S.A. 2012 Supp. 65-129a, 65-6826 and 65-6827."

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

MARY PILCHER-COOK

ELAINE BOWERS

LAURA KELLY

*Conferees on part of Senate*

DAVID CRUM

BRIAN WEBER

JIM WARD

*Conferees on part of House*

Senator Pilcher-Cook moved the Senate adopt the Conference Committee Report on **Sub HB 2183**.

On roll call, the vote was: Yeas 36; Nays 2; Present and Passing 1; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, V. Schmidt, Smith, Wagle, Wolf.

Nays: Pyle, Tyson.

Present and Passing: Francisco.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

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

The House accedes to all Senate amendments to the bill, and your committee on

conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 24 through 30;

By striking all on pages 2 through 4;

On page 5, by striking all in lines 1 through 38 and inserting:

"Section 1. K.S.A. 68-2003 is hereby amended to read as follows: 68-2003. (a) There is hereby created a body politic and corporate to be known as the Kansas turnpike authority. The authority is hereby constituted a public instrumentality and the exercise by the authority of the powers conferred by this act in the construction, operation and maintenance of turnpike projects shall be deemed and held to be the performance of an essential governmental function.

(b) The Kansas turnpike authority shall consist of five members. Two members shall be appointed by the governor for terms of four years. The members appointed by the governor shall be residents of the state and shall each year be owners of revenue bonds issued by the Kansas turnpike authority. One member of the authority shall be the secretary of transportation. One member shall be the chairperson of the committee on transportation and tourism of the senate, and one member shall be a member of the committee on transportation of the house of representatives and shall be appointed by the speaker of the house of representatives. Any person appointed by the governor to fill a vacancy on the authority shall be appointed to serve only for the unexpired term, and a member of the authority shall be eligible for reappointment. A member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and a public hearing conducted in accordance with the provisions of the Kansas administrative procedure act. Each member of the authority, before entering upon the member's duties, shall take and subscribe an oath or affirmation as required by law.

(c) The authority shall elect one member as chairperson of the authority and another as vice-chairperson. The authority shall also elect a secretary-treasurer who need not be a member of the authority. The chairperson, vice-chairperson and secretary-treasurer shall serve as officers at the pleasure of the authority. Three members of the authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(d) Members of the Kansas turnpike authority attending meetings of such authority, or attending a subcommittee meeting thereof authorized by such authority, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) On and after July 1, 2013, the secretary of transportation shall serve as the director of operations of the authority. The director of operations shall be responsible for the daily administration of the toll roads, bridges, structures and facilities constructed, maintained or operated pursuant to this act. The director of operations or the director's designee shall have such powers as are necessary to carry out these responsibilities. The provisions of this subsection shall expire and have no effect on and after July 1, 2016.

Sec. 2. K.S.A. 68-2009 is hereby amended to read as follows: 68-2009. (a) The authority is hereby authorized to fix, revise, charge and collect tolls for the use of each

turnpike project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, motor fuel filling stations, garages, and restaurants, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. All contracts made by the authority for retail establishments or locations for retail establishments shall be made separately for each retail establishment or location for a retail establishment and sealed bids shall be asked separately on each retail establishment or each location for a retail establishment by public offering duly advertised as provided by law for the advertising for bids on state highway construction projects and each such contract shall be let by the authority in like manner as provided by law for the letting of highway construction contracts by the secretary of transportation. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay ~~(a)~~: (1) The cost of maintaining, repairing and operating such turnpike project or projects; and ~~(b)~~ (2) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes.

(b) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the state. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

(c) The authority shall not use toll or other revenue for any other purposes than those set forth in this section.

Sec. 3. K.S.A. 68-2021 is hereby amended to read as follows: 68-2021. On and after July 1, 2016, the secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other, by the terms of which

contract or contracts the secretary may undertake; (1) to provide personnel and equipment, either of the department of transportation or consulting or contracting firms, required in making any traffic and cost studies or surveys or origin-destination studies necessary preliminary to financing by the Kansas turnpike authority of any particular toll project undertaken as authorized by law, and to do such work; and

(2) to provide personnel and equipment required, and to do any engineering, geological work, soils testing or materials testing which may be required by the Kansas turnpike authority either preliminary to the financing of any particular toll project authorized by law or which may be required after such financing and during the construction of such project: ~~Provided, That, The~~ charges for services contemplated by such project shall be made by the secretary of transportation on the basis of the total and actual cost to the department of all wages, salaries, expenses, equipment rental, damage to equipment, depreciation or other charges and expenses chargeable to the services to be rendered to the Kansas turnpike authority: ~~Provided further,~~ except that the total amount of any credit and funds advanced hereunder shall not at any one time exceed the sum of ~~two hundred fifty thousand dollars (\$250,000)~~ \$250,000.

New Sec. 4. (a) The secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other to provide personnel and equipment and other resources, either of the department of transportation, the Kansas turnpike authority or consulting or contracting firms for: (1) Recordkeeping, reporting, administrative, planning, engineering, legal and clerical functions; and

(2) construction, operation and maintenance of turnpike projects and highways of the state.

(b) The Kansas turnpike authority shall retain its separate identity, powers and duties as an instrumentality of the state. Duplication of effort, facilities and equipment shall be minimized by the authority and the secretary of transportation in operation and maintenance of turnpikes and highways of the state. The authority and the secretary are authorized to take such action as necessary to implement this section, including the temporary transfer of personnel, property and equipment from the authority to the secretary, and the secretary to the authority, to effect contracts described in subsection

(a). The integrity of the bonded indebtedness shall be maintained through the actions of the authority.

(c) The provisions of this section shall expire and have no effect on and after July 1, 2016.";

On page 1, in the title, in line 1, after concerning, by inserting "transportation; relating to"; also in line 1, after "authority;" by inserting "director of operations;";

And by renumbering sections accordingly;

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

TY MASTERSON

JIM DENNING

LAURA KELLY

*Conferees on part of Senate*

RICHARD PROEHL

RON RYCKMAN, SR.

EMILY PERRY

*Conferees on part of House*

Senator Masterson moved the Senate adopt the Conference Committee Report on **HB 2234**.

On roll call, the vote was: Yeas 26; Nays 13; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Fitzgerald, Haley, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Nays: Donovan, Emler, Faust-Goudeau, Francisco, Hawk, Hensley, Holland, Kelly, Longbine, Olson, Ostmeyer, Pettey, V. Schmidt.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

#### EXPLANATION OF VOTE

Mr. Vice President: I vote NO on the conference committee report for **HB 2234**; I agree with the comment that was made on the floor that this action is like making a U-turn on the highway at high speed and not a good idea.—MARCI FRANCISCO

#### ORIGINAL MOTION

A motion was made by Senator Bruce to not adopt the conference committee report on **SB 71** and appoint new conferees prevailed.

The Vice President appointed Senators Abrams, Arpke and Hensley as third conferees in the part of the Senate.

#### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 122** submits the following report:

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

On page 1, by striking all in lines 6 through 25 and inserting:

"Section 1. K.S.A. 25-2422 is hereby amended to read as follows: 25-2422. (a) Unauthorized voting disclosure is, while being charged with any election duty, intentionally:

~~(a)(1) Disclosing or exposing the contents of any ballot or the manner in which the ballot has been voted, whether cast in a regular or provisional manner, or the name of any voter who cast such ballot, except as ordered by a court of competent jurisdiction- in an election contest pursuant to K.S.A. 25-1434 et seq., and amendments thereto; or~~

~~(b)(2) endeavoring to induce inducing or attempting to induce any voter to show how the voter marks or has marked the voter's ballot.~~

~~(b) The name of any voter who has cast a ballot shall not be disclosed from the time the ballot is cast until the final canvass of the election by the county board of canvassers.~~

~~(c) Nothing in this section shall prohibit the disclosure of the names of persons who have voted advance ballots.~~

~~(d) Nothing in this section shall prohibit authorized poll agents from observing~~

elections as authorized by K.S.A. 25-3004, 25-3005 and 25-3005a, and amendments thereto.

(e) Unauthorized voting disclosure is a severity level 10, nonperson felony.

Sec. 2. K.S.A. 25-2422 is hereby repealed.";

Also on page 1, in the title, in line 1, by striking all after "concerning"; in line 2 by striking "order or notice;" and inserting "elections; relating to unauthorized voting disclosures;"; also in line 2, by striking "2012 Supp. 77-531" and inserting "25-2422";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE PAULS

*Conferees on part of House*

Senator King moved the Senate adopt the Conference Committee Report on **SB 122**.

On roll call, the vote was: Yeas 30; Nays 9; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeier, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, V. Schmidt.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 199** submits the following report:

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

On page 5, following line 4, by inserting:

"Sec. 7. K.S.A. 2012 Supp. 65-1636 is hereby amended to read as follows: 65-1636. (a) Except as otherwise provided in this act, the sale and distribution of drugs shall be limited to pharmacies operating under registrations as required by this act, and the actual sale or distribution of drugs shall be made by a pharmacist or other persons acting under the immediate personal direction and supervision of the pharmacist.

~~(b) The donation, acceptance, transfer, distribution or dispensing of any drug in compliance with the provisions of the cancer drug repository program established by K.S.A. 2012 Supp. 65-1664 through 65-1667, and amendments thereto, and any rules and regulations promulgated thereunder shall not constitute a violation of this section.~~

(e)(b) The donation, acceptance, transfer, distribution or dispensing of any drug in

compliance with the provisions of the utilization of unused medications act and any rules and regulations promulgated thereunder shall not constitute a violation of this section.

Sec. 8. K.S.A. 2012 Supp. 65-1669 is hereby amended to read as follows: 65-1669. As used in the utilization of unused medications act:

(a) "Adult care home" has the same meaning as such term is defined in K.S.A. 39-923, and amendments thereto.

(b) "Community mental health center" has the same meaning as such term is defined in K.S.A. 75-3307c, and amendments thereto.

(c) "Donating entities" means adult care homes, mail service pharmacies, institutional drug rooms and medical care facilities who elect to participate in the program.

(d) "Drug" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(e) "Federally qualified health center" means a center which meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of the public health service act, and amendments thereto, and which has been designated as a "federally qualified health center" by the federal government.

(f) "Indigent health care clinic" has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(g) "Institutional drug room" has the meaning as such term is defined in K.S.A. 65-1626(bb), and amendments thereto.

~~(g)~~ (h) "Mail service pharmacy" means a licensed Kansas pharmacy that ships, mails or delivers by any lawful means a lawfully dispensed medication in tamper-resistant packaging to residents of this state or another state.

~~(h)~~ (i) "Medical care facility" has the same meaning as such term is defined in K.S.A. 65-425, and amendments thereto.

~~(i)~~ (j) "Medically indigent" has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

~~(j)~~ (k) "Medication" means a prescription drug or drug as defined by this section.

~~(k)~~ (l) "Mid-level practitioner" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

~~(l)~~ (m) "Practitioner" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

~~(m)~~ (n) "Prescription drug" means a drug which may be dispensed only upon prescription of a practitioner or mid-level practitioner authorized by law and which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the federal food, drug and cosmetic act (~~52 Stat. 1040 (1938), 21 U.S.C.A. § 301~~), ~~and amendments thereto.~~

~~(n)~~ (o) "Qualifying center or clinic" means an indigent health care clinic, federally qualified health center or community mental health center.

(p) "Samples of medications or injectables" means a unit of drug that is not intended to be sold and is intended to promote the sale of the drug.

Sec. 9. K.S.A. 2012 Supp. 65-1670 is hereby amended to read as follows: 65-1670.

(a) The board of pharmacy shall establish and implement a program consistent with public health and safety through which unused drugs, ~~other than drugs defined as controlled substances~~, may be transferred from donating entities that elect to participate

in the program for the purpose of distributing the unused medications to Kansas residents who are medically indigent.

(b) A qualifying center or clinic in consultation with a pharmacist shall establish procedures necessary to implement the program established by the utilization of unused medications act.

(c) The state board of pharmacy shall provide technical assistance to entities who may wish to participate in the program.

Sec. 10. K.S.A. 2012 Supp. 65-1671 is hereby amended to read as follows: 65-1671. The following criteria shall be used in accepting unused medications for use under the utilization of unused medications act:

(a) The medications shall have come from a controlled storage unit of a donating entity;

(b) only medications in their original or pharmacist sealed unit dose packaging or in tamper evident packaging, unit of use or sealed, unused injectables, including samples of medications or injectables, shall be accepted and dispensed pursuant to the utilization of unused medications act;

(c) expired medications shall not be accepted;

(d) a medication shall not be accepted or dispensed if the person accepting or dispensing the medication has reason to believe that the medication is adulterated;

(e) no controlled substances shall be accepted; and, unless the state board of pharmacy designates certain controlled substances as accepted medications in the adoption of rules and regulations pursuant to K.S.A. 65-1674, and amendments thereto; and

(f) subject to the limitation specified in this section, unused medications dispensed for purposes of a medical assistance program or drug product donation program may be accepted and dispensed under the utilization of unused medications act.

Sec. 11. K.S.A. 2012 Supp. 65-1674 is hereby amended to read as follows: 65-1674. (a) The state board of pharmacy shall adopt rules and regulations ~~by December 1, 2008~~, to implement the utilization of unused medications act. Such rules shall:

(1) Include standards and procedures for transfer, acceptance and safe storage of donated medications;

(2) include standards and procedures for inspecting donated medications to ensure that the medications are in compliance with the utilization of unused medications act and to ensure that, in the professional judgment of a pharmacist, the medications meet all federal and state standards for product integrity;

(3) establish standards and procedures for acceptance of unused medications from donating entities; ~~and~~

(4) establish standards and procedures for designating certain controlled substances as accepted donated medications;

(5) establish standards and procedures for a qualifying center or clinic to prepare any donated medications for dispensing or administering; and

(6) establish, in consultation with the department of health and environment and the Kansas department ~~on~~ for aging and disability services, any additional rules and regulations, and standards and procedures it deems appropriate or necessary to implement the provisions of the utilization of unused medications act.

(b) In accordance with the rules and regulations and procedures of the program established pursuant to this section, a resident of an adult care home, or the



representative or guardian of a resident may donate unused medications, ~~other than prescription drugs defined as controlled substances~~, for dispensation to medically indigent persons.

Sec. 12. K.S.A. 2012 Supp. 65-1636, 65-1664, 65-1665, 65-1666, 65-1667, 65-1669, 65-1670, 65-1671 and 65-1674 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all following "concerning"; in line 2, by striking all before the period and inserting "health care; relating to stem cell therapy and unused medications; amending K.S.A. 2012 Supp. 65-1636, 65-1669, 65-1670, 65-1671 and 65-1674 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 65-1664, 65-1665, 65-1666 and 65-1667"

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

MARY PILCHER-COOK

ELAINE BOWERS

LAURA KELLY

*Conferees on part of Senate*

DAVID CRUM

BRIAN WEBER

JIM WARD

*Conferees on part of House*

Senator Pilcher-Cook moved the Senate adopt the Conference Committee Report on **SB 199**.

On roll call, the vote was: Yeas 31; Nays 8; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Haley, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Hawk, Hensley, Holland, Kelly, Pettey, V. Schmidt.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

## **ORIGINAL MOTION**

Senator Bruce moved that the the paper copy rule (according to Joint Rule 3(f) be waived, an emergency be declared and the Conference Committee Reports on **SB 23**, **HB 2204**, and **SB 102** be advanced for consideration.

The motion carried.

## **CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 23** submits the following report:

The House recesses from all of its amendments to the bill, and your committee on conference further agrees to amend the bill as introduced, as follows:

On page 1, following line 5, by inserting:

"New Section 1. The director of budget and the director of legislative research shall jointly certify to the secretary of state that the aggregate amount of appropriations for the school district capital outlay state aid fund is equal to 100% of the amount that school districts are entitled to receive from the school district capital outlay state aid fund for such school year pursuant to K.S.A. 2012 Supp. 72-8814, and amendments thereto. Upon receipt of such certification, the secretary of state shall cause a notice of such certification to be published in the Kansas register.";

Also on page 1, following line 35, by inserting:

"Sec. 3. K.S.A. 2012 Supp. 72-6441 is hereby amended to read as follows: 72-6441. (a) (1) The board of any district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of costs directly attributable to commencing operation of one or more new school facilities and the amount that is financed from any other source provided by law for such purpose, including any amount attributable to assignment of school facilities weighting to enrollment of the district for each school year in which the district is eligible for such weighting. If the district is not eligible, or will be ineligible, for school facilities weighting in any one or more years during the two-year period for which the district is authorized to levy a tax under this subsection, the state court of tax appeals may authorize the district to make a levy, in such year or years of ineligibility, which will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the facility or facilities.

(2) The state court of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(3) The state court of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this subsection, including rules and regulations relating to the evidence required in support of a district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(4) The provisions of this subsection apply to any district that: (A) Commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year or any or all of the foregoing; (B) is authorized to adopt and has adopted a local option budget which is at least equal to that amount required to qualify for school facilities weighting under K.S.A. 2012 Supp. 72-6415b, and amendments thereto; and (C) is experiencing extraordinary enrollment growth as determined by the state board of education.

(b) The board of any district that has levied an ad valorem tax on the taxable tangible property of the district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed ~~three~~ six years in an amount not to exceed the amount computed by the state board of education as provided in this

subsection if the board of the district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the district. The tax authorized under this subsection may be levied at a rate which will produce an amount that is not greater than the amount computed by the state board of education as provided in this subsection. In computing such amount, the state board shall:

(1) Determine the amount produced by the tax levied by the district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of general state aid directly attributable to school facilities weighting that was received by the district in the same year;

(2) compute ~~75%-90%~~ of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the first year of the ~~three-year six-year~~ period for which the district may levy a tax under authority of this subsection;

(3) compute ~~50%-75%~~ of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the second year of the ~~three-year six-year~~ period for which the district may levy a tax under authority of this subsection; ~~and~~

(4) compute ~~25%-60%~~ of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the third year of the ~~three-year six-year~~ period for which the district may levy a tax under authority of this subsection;

(5) compute 45% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the fourth year of the six-year period for which the district may levy a tax under authority of this subsection;

(6) compute 30% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the fifth year of the six-year period for which the district may levy a tax under authority of this subsection; and

(7) compute 15% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the sixth year of the six-year period for which the district may levy a tax under authority of this subsection.

In determining the amount produced by the tax levied by the district under authority of subsection (a), the state board shall include any moneys which have been apportioned to the ancillary facilities fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(c) The proceeds from the tax levied by a district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

Sec. 4. K.S.A. 2012 Supp. 72-6448 is hereby amended to read as follows: 72-6448.  
(a) As used in this section:

(1) "Pupil" means a person who is a dependent of a full-time active duty member of the military service or a dependent of a member of any of the United States military reserve forces who has been ordered to active duty under section 12301, 12302 or 12304 of Title 10 of the United States Code, or ordered to full-time active duty for a period of more than 30 consecutive days under section 502(f) or 512 of Title 32 of the

United States Code for the purposes of mobilizing for war, international peacekeeping missions, national emergency or homeland defense activities.

(2) "School year" means school year ~~2009-2010, 2010-2011, 2011-2012 or 2012-2013~~ 2013-2014, 2014-2015, 2015-2016, 2016-2017 or 2017-2018.

(b) Each school year, the state board shall:

(1) Determine the number of pupils enrolled in each district on September 20; and

(2) determine the number of military pupils enrolled in each district on February 20, who were not enrolled on the preceding September 20;

(c) (1) If the number obtained under subsection (b)(2) is 25 or more, an amount equal to the number obtained under subsection (b)(2) shall be added to the number determined under subsection (b)(1). The sum is the enrollment of the district.

(2) If the number obtained under subsection (b)(2) is at least 1% of the number determined under subsection (b)(1), an amount equal to the number obtained under subsection (b)(2) shall be added to the number determined under subsection (b)(1). The sum is the enrollment of the district.

(d) The state board shall recompute the adjusted enrollment of the district and the general fund budget of the school district based on the enrollment as determined under this section.

(e) Districts desiring to determine enrollment under this section shall submit any documentation or information required by the state board.

Sec. 5. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 2012 Supp. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in this act and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_,

\_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of buildings school district property and equipment necessary for school district purposes, including: (1) Acquisition of computer software; (2) acquisition of performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board; (4) architectural expenses incidental thereto; the; (5) acquisition of building sites; the; (6) undertaking and maintenance of asbestos control projects; the; (7) acquisition of school buses and the; and (8) acquisition of other equipment fixed assets, and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and

amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 calendar days after the last publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for ~~the~~ that purpose or at the next general election, as is specified by the board of education of the above school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the above resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the word "mills" shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 calendar days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act:

(1) "Unconditionally authorized to make a capital outlay tax levy" means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) "statutorily prescribed mill rate" means: (A) Eight mills; (B) the mill levy rate in excess of eight mills if the resolution fixing such rate was approved at an election prior to the effective date of this act; or (C) the mill levy rate in excess of eight mills if no petition or no sufficient petition was filed in protest to a resolution fixing such rate in excess of eight mills and the protest period for filing such petition has expired;

(3) "asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and

maintenance programs and management plans;

(4) "asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) "asbestos-containing material" means any material or product which contains more than 1% asbestos.

Sec. 6. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 72-8804 is hereby amended to read as follows: 72-8804. (a) Any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for the purpose of the acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of buildings school district property and equipment necessary for school district purposes, including: (1) Acquisition of computer software; (2) acquisition of performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board of education; ~~(4) architectural expenses incidental thereto, the;~~ (5) acquisition of building sites; ~~the;~~ (6) undertaking and maintenance of asbestos control projects; ~~the;~~ (7) acquisition of school buses ~~and the;~~ and (8) acquisition of other equipment fixed assets.

(b) The board of education of any school district is hereby authorized to invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein, or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the capital outlay fund.

Sec. 7. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 72-8812 is hereby amended to read as follows: 72-8812. This act shall not in any manner be construed as affecting the validity of any tax levies authorized to be made under article 88 of chapter 72 of the Kansas Statutes Annotated prior to the effective date of this act, nor shall this act in any manner be construed as affecting the validity of any bonds issued or authorized to be issued under ~~said~~ article 88 of chapter 72 of the Kansas Statutes Annotated prior to the effective date of this act.

Sec. 8. K.S.A. 2012 Supp. 72-8254 is hereby amended to read as follows: 72-8254. (a) This section shall be known and may be cited as the Kansas uniform financial accounting and reporting act.

(b) As used in this section:

(1) "Budget summary" means a summary of the official budget adopted by the board of education of the school district, and shall include, but is not limited to, graphs depicting the total expenditures in the budget by category, supplemental and general fund expenditures, instruction expenditures, enrollment figures, mill rates by fund and average salaries. For purposes of this section, the budget at a glance format developed by the state board, and any successor format shall be deemed a budget summary, provided it complies with the requirements of this section.

(2) "Reporting system" means the uniform reporting system, including a uniform

chart of accounts, developed by the state board as required by this section.

~~(2)~~ (3) "School district" means ~~any a unified~~ school district ~~in the~~ organized and operated under the laws of this state.

~~(3)~~ (4) "State board" means the state board of education.

(c) The state board shall develop and maintain a uniform reporting system for the receipts and expenditures of school districts. The accounting records maintained by each school district shall be coordinated with the uniform reporting system. Each school district shall record the receipts and expenditures of the district in accordance with a uniform classification of accounts or chart of accounts and reports as shall be prescribed by the state board. Each school district shall submit such reports and statements as may be required by the state board. The state board shall design, revise and direct the use of accounting records and fiscal procedures and prescribe uniform classifications for receipts and expenditures for all school districts. The reporting system shall include all funds held by a school district regardless of the source of the moneys held in such funds, including, but not limited to, all funds funded by fees or other sources of revenue not derived from tax levies. The state board shall prescribe the necessary forms to be used by school districts in connection with such uniform reporting system.

(d) The reporting system developed by the state board shall be developed in such a manner that allows school districts to record and report any information required by state or federal law.

(e) The reporting system shall provide records showing by funds, accounts and other pertinent classifications, the amounts appropriated, the estimated revenues, actual revenues or receipts, the amounts available for expenditure, the total and itemized expenditures, the unencumbered cash balances, excluding state aid receivable, actual balances on hand and the unencumbered balances of allotments or appropriations for each school district.

(f) The reporting system shall allow a person to search the data and allow for the comparison of data by school district.

(g) Each school district shall annually submit a report to the state board on all construction activity undertaken by the school district which was financed by the issuance of bonds and which such bonds have not matured. Such report shall include all revenue receipts, all expenditures of bond proceeds authorized by law, the dates for commencement and completion of such construction activity, the estimated cost and the actual cost of such construction activity. The information provided in the report shall be in a form so as to readily identify such information with a specific construction project. Such report shall be submitted in a form and manner prescribed by the state board in accordance with the provisions of this section.

(h) From and after July 1, 2012, the board of education of each school district shall record and report the receipts and expenditures of the district in the manner prescribed by the state board in accordance with this section.

(i) (1) Each school district shall annually publish on such district's internet website:

~~(A)~~ (A) A copy of form 150, estimated legal maximum general fund budget, or any successor document containing the same or similar information, that was submitted by such district to the state board of education for the immediately preceding school year. ~~A copy of such document shall also be annually published by the department of education on its internet website; and~~

(B) the budget summary for the current school year and actual expenditures for the

immediately preceding two school years showing total dollars net of transfers and dollars per pupil for each of the following:

- (1) Function 1000, instruction;
- (2) function 2100, student support;
- (3) function 2200, instructional staff support;
- (4) functions 2300 through 2500, administration;
- (5) function 2600, operation and maintenance;
- (6) function 2700, transportation;
- (7) function 3100, food service;
- (8) functions 2900, 3200 and 3300, other current spending;
- (9) function 4000, capital outlay;
- (10) function 5100, debt service;
- (11) the total expenditures which is the sum of the amounts in paragraphs (1) through (10);

(12) the spending allocated to function 1000, instruction, excluding capital outlay and debt service expenditures, as a percentage of total expenditures;

(13) the spending allocated to function 1000, instruction, excluding capital outlay and debt service expenditures, as a percentage of current spending, which is the sum of expenditures for functions 1000 through 3300 less capital outlay and debt service expenditures included in any of those functions; and

(14) the revenue in total dollars net of transfers both in total and disaggregated to show the amount of revenue received from local, state and federal revenue sources.

For purposes of subsection (i)(1)(B), all per pupil amounts shall be calculated using the full-time equivalent enrollment of the school district. All function categories and other accounting categories shall refer to those same categories as established and required for financial accounting purposes by the state board as published in the Kansas state department of education's Kansas accounting handbook for unified school districts, as published in August 2012, or later versions as established in rules and regulations adopted by the state board.

(2) Publications pursuant to required by this subsection shall be conducted in such manner as to make the document readily accessible to the public published with an easily identifiable link located on such district's website homepage.

(j)(1) The department of education shall annually publish on its internet website;

(A) All of the publications required under subsection (i); and

(B) the following expenditures for each school district on a per pupil basis:

(1) Total expenditures;

(2) capital outlay expenditures;

(3) bond and interest expenditures; and

(4) all other expenditures not included in (2) or (3).

(2) Publications required by this subsection shall be published with an easily identifiable link located on the department's website homepage.";

And by redesignating sections accordingly;

On page 2, in line 6, after "72-6431" by inserting ", 72-6441, 72-6448, 72-8254";

Also on page 2, following line 6, by inserting :

"Sec. 11. On July 1, 2013, and the date of publication in the Kansas register of the notice prescribed in section 1, K.S.A. 72-8804 and 72-8812 and K.S.A. 2012 Supp. 72-8801 are hereby repealed.";



On page 1, in the title, in line 1, by striking all after the semicolon; in line 2, by striking all before "amending"; also in line 2, after "amending" by inserting "K.S.A. 72-8804 and 72-8812 and"; in line 3, after "72-6431" by inserting ", 72-6441, 72-6448, 72-8801, 72-8254";

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

STEVE ABRAMS

PAT ARPKE

ANTHONY HENSLEY

*Conferees on part of Senate*

WARD CASSIDY

AMANDA GROSSERODE

VALDENIA WINN

*Conferees on part of House*

Senator Abrams moved the Senate adopt the Conference Committee Report on **SB 23**.

On roll call, the vote was: Yeas 28; Nays 11; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Nays: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Ostmeyer, Pettey, V. Schmidt.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

### **ORIGINAL MOTION**

Senator Hensley made a substitute motion to not adopt the conference committee report on **SB 23** and appoint a new conference committee.

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

On roll call, the vote was: Yeas 18; Nays 21; Present and Passing 0; Absent or Not Voting 1.

Yeas: Bowers, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, LaTurner, Love, Petersen, Pettey, V. Schmidt, Tyson.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, King, Knox, Longbine, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, Smith, Wagle, Wolf.

Absent or Not Voting: McGinn.

Motion failed.

### **CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 102** submits the following report:

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

amendments, as follows

On page 1, by striking all in lines 6 through 36;

On page 2, by striking all in lines 1 through 4 and inserting:

"Section 1. Sections 1 through 11, and amendments thereto, may be cited as the second amendment protection act.

Sec. 2. The legislature declares that the authority for sections 1 through 11, and amendments thereto, is the following:

(a) The tenth amendment to the constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Kansas certain powers as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those powers is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(b) The ninth amendment to the constitution of the United States guarantees to the people rights not granted in the constitution and reserves to the people of Kansas certain rights as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those rights is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(c) The second amendment to the constitution of the United States reserves to the people, individually, the right to keep and bear arms as that right was understood at the time that Kansas was admitted to statehood in 1861, and the guaranty of that right is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(d) Section 4 of the bill of rights of the constitution of the state of Kansas clearly secures to Kansas citizens, and prohibits government interference with, the right of individual Kansas citizens to keep and bear arms. This constitutional protection is unchanged from the constitution of the state of Kansas, which was approved by congress and the people of Kansas, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

Sec. 3. As used in sections 1 through 11, and amendments thereto, the following definitions apply:

(a) "Borders of Kansas" means the boundaries of Kansas described in the act for admission of Kansas into the union, 12 stat. 126, ch. 20, § 1.

(b) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including, but not limited to, telescopic or laser sights, magazines, flash or sound suppressors, collapsible or adjustable stocks and grips, pistol grips, thumbhole stocks, speedloaders, ammunition carriers and lights for target illumination.

(c) "Manufacture" means to assemble using multiple components to create a more useful finished product.

Sec. 4. (a) A personal firearm, a firearm accessory or ammunition that is manufactured commercially or privately and owned in Kansas and that remains within the borders of Kansas is not subject to any federal law, treaty, federal regulation, or

federal executive action, including any federal firearm or ammunition registration program, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory or ammunition that is manufactured commercially or privately and owned in the state of Kansas.

(b) Component parts are not firearms, firearms accessories or ammunition, and their importation into Kansas and incorporation into a firearm, a firearm accessory or ammunition manufactured and owned in Kansas does not subject the firearm, firearm accessory or ammunition to federal regulation. It is declared by the legislature that such component parts are not firearms, firearms accessories or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories and ammunition under interstate commerce as if they were actually firearms, firearms accessories or ammunition.

(c) Firearms accessories that are imported into Kansas from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Kansas.

Sec. 5. A firearm manufactured in Kansas within the meaning of sections 1 through 11, and amendments thereto, must have the words "Made in Kansas" clearly stamped on a central metallic part, such as the receiver or frame.

Sec. 6. (a) Any act, law, treaty, order, rule or regulation of the government of the United States which violates the second amendment to the constitution of the United States is null, void and unenforceable in the state of Kansas.

(b) No official, agent or employee of the state of Kansas, or any political subdivision thereof, shall enforce or attempt to enforce any act, law, treaty, order, rule or regulation of the government of the United States regarding any personal firearm, firearm accessory or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas.

Sec. 7. It is unlawful for any official, agent or employee of the government of the United States, or employee of a corporation providing services to the government of the United States to enforce or attempt to enforce any act, law, treaty, order, rule or regulation of the government of the United States regarding a firearm, a firearm accessory, or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas. Violation of this section is a severity level 10 nonperson felony. Any criminal prosecution for a violation of this section shall be commenced by service of complaint and summons upon such official, agent or employee. Such official, agent or employee shall not be arrested or otherwise detained prior to, or during the pendency of, any trial for a violation of this section.

Sec. 8. A county or district attorney, or the attorney general, may seek injunctive relief in any court of competent jurisdiction to enjoin any official, agent or employee of the government of the United States or employee of a corporation providing services to the government of the United States from enforcing any act, law, treaty, order, rule or regulation of the government of the United States regarding a firearm, a firearm accessory, or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas.

Sec. 9. Sections 1 through 11, and amendments thereto, do not apply to: (a) A

firearm that cannot be carried and used by one person;

(b) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or

(c) other than shotguns, a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

Sec. 10. Sections 1 through 11, and amendments thereto, apply to firearms, firearms accessories and ammunition that are manufactured, as defined in section 3, and amendments thereto, owned and remain within the borders of Kansas on and after October 1, 2009.

Sec. 11. If any provision of sections 1 through 10, and amendments thereto, or the application to any persons or circumstances is held to be invalid, such invalidity shall not affect the other provisions or application of sections 1 through 10, and amendments thereto, and to this end the provisions of section 1 through 10, and amendments thereto, are declared to be severable.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.:";

On page 1, in the title, in line 1 by striking all after "ACT"; by striking all in lines 2 and 3 and inserting "enacting the second amendment protection act.:";

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

RALPH OSTMEYER

JAY SCOTT EMLER

OLETHA FAUST-GOUDEAU

*Conferees on part of Senate*

ARLEN SIEGFREID

STEVEN BRUNK

LOUIS RUIZ

*Conferees on part of House*

Senator Ostmeyer moved the Senate adopt the Conference Committee Report on **SB 102**.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Haley, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Hawk, V. Schmidt.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.

#### EXPLANATION OF VOTE

Mr. Vice President: Under the Tenth Amendment to the United States Constitution, **SB 102**, as amended, protects the right of individual Kansans to keep and bear Kansas-made firearms free of federal government interference, under the Second Amendment and Section 4 of the Kansas Bill of Rights. Kansas-made firearms and accessories remaining within the borders of Kansas are not in interstate commerce. Thus, as this bill

affirms, any federal law, rule or order seeking to regulate or restrict them is unconstitutional. The bill by its terms only proscribes enforcement of federal laws regarding firearms, not the people who use them. Thus, if by virtue of the criminal history or the felonious actions of the person using the firearm, a crime has occurred, this bill would not prevent prosecution of that crime. For instance, federal criminal statutes prohibiting the use of a firearm in (or the possession of a firearm during) the commission of a felony or the possession of firearms by felons are not affected or proscribed by this act. **SB 102** establishes that the Second and Tenth Amendments to the U.S. Constitution are alive and well in Kansas. I vote yes on the conference committee report on **SB 102**.—JEFF KING

Senators Abrams, Apple, Arpke, Donovan, Holmes, LaTurner, Love, Lynn, O'Donnell, Olson, Petersen, Pilcher-Cook, Powell, Pyle, Smith, and Wolf request the record to show they concur with the "Explanation of Vote" offered by Senator King on **SB 102**.

#### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2204** submits the following report:

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

On page 1, by striking all in lines 6 through 34;

By striking all on pages 2 through 4;

On page 5, by striking line 1 and inserting:

"Section 1. K.S.A. 2012 Supp. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of

vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

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

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

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

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

officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

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

On and after July 1, 1996:

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

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

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

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

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

(i) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 2. K.S.A. 2012 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to: (1) Appear before any district or municipal court in response to a traffic citation and pay in full any fine and

court costs imposed; or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

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

~~(2) (A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable \$25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund.~~

~~(B) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (i) in going to or returning from the person's place of employment or schooling; (ii) in the course of the person's employment; (iii) during a medical emergency; and (iv) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court. The provisions of this paragraph shall expire on January 1, 2012.~~



(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2012 Supp. 20-1a15, and amendments thereto.

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

(e) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 3. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as follows: 21-6614.

(a) (1) Except as provided in subsections (b), (c), (d) and (e), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or

related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

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

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

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

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

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

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

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

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

(c) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(f) (1) When a petition for expungement is filed, the court shall set a date for a

hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

- (A) Defendant's full name;
- (B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;
- (C) defendant's sex, race and date of birth;
- (D) crime for which the defendant was arrested, convicted or diverted;
- (E) date of the defendant's arrest, conviction or diversion; and
- (F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after ~~April 12, 2012, through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

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

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

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

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2012 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas

~~department of social and rehabilitation for aging and disability services;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the ~~secretary of social and rehabilitation~~ secretary of aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the ~~Kansas department of social and rehabilitation~~ Kansas department of aging and disability services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A)

Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

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

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

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

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

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

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

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

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

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

Sec. 4. K.S.A. 2012 Supp. 22-2410 is hereby amended to read as follows: 22-2410.

(a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after the effective date of this act through June

~~30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel. The petition shall state:

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

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-6107, and amendments thereto, or who has had criminal charges dismissed because a court has found that there was no probable cause for the arrest, the petitioner was found not guilty in court proceedings or the charges have been dismissed. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

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

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

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

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

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

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

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in



sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

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

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

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

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

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

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

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

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

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

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

Sec. 5. K.S.A. 2012 Supp. 23-2510 is hereby amended to read as follows: 23-2510.

(a) The judge or clerk of the district court shall collect from the applicant for a marriage license a fee of \$59.

(b) The clerk of the court shall remit all fees prescribed by this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each remittance, the state treasurer shall credit 38.98% to the protection from abuse fund, 15.19% to the family and children trust account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto, 16.95% to the crime victims assistance fund created by K.S.A. 74-7334, and amendments thereto, 15.25% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2012 Supp. 20-1a15, and amendments thereto, and the remainder to the state general fund.

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

~~date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$26.50 per marriage license fee, to fund the costs of non-judicial personnel.

Sec. 6. K.S.A. 2012 Supp. 28-170 is hereby amended to read as follows: 28-170.

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

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

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

(c) In actions pursuant to the revised Kansas code for care of children, K.S.A. 2012 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 et seq., and amendments thereto, the act for treatment of alcoholism, K.S.A. 65-4001 et seq., and amendments thereto, the act for treatment of drug abuse, K.S.A. 65-5201 et seq., and amendments thereto, or the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto, the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a, and amendments thereto.

(d) In actions pursuant to the revised Kansas code for care of children, K.S.A. 2012 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 et seq., and amendments thereto, the act for treatment of alcoholism, K.S.A. 65-4001 et seq., and amendments thereto, the act for treatment of drug abuse, K.S.A. 65-5201 et seq., and amendments thereto, or the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto, the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b, and amendments thereto.

(e) Except as provided further, the bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the

legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per bond, lien or judgment fee, to fund the costs of non-judicial personnel.

Sec. 7. K.S.A. 2012 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows, on and after July 1, 2013:

(1) ~~On and after July 1, 2009 through June 30, 2013:~~

Murder or manslaughter .....	\$182.50
Other felony .....	173.00
Misdemeanor .....	138.00
Forfeited recognizance .....	74.50
Appeals from other courts .....	74.50

(2) ~~On and after July 1, 2013:~~

Murder or manslaughter .....	\$180.50
Other felony .....	171.00
Misdemeanor .....	136.00
Forfeited recognizance .....	72.50
Appeals from other courts .....	72.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways, including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto, a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of the Kansas Statutes Annotated, and amendments thereto, or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2009 through June 30, 2013, a docket fee of \$76 shall be charged, and on and after July 1, 2013, a docket fee of \$74 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, on and after July 1, 2009 through June 30, 2013, the docket fee to be paid as court costs shall be \$76, and on and after July 1, 2013, the docket fee to be paid as court costs shall be \$74.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, ~~on and after July 1, 2009 through June 30, 2013, a docket fee of \$76 shall be charged, and~~ on and after July 1, 2013, a docket fee of \$74 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, ~~on and after July 1, 2009 through June 30, 2013, the docket fee to be paid as court costs shall be \$76, and~~ on and after July 1, 2013, the docket fee to be paid as court costs shall be \$74.

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

(d) Statutory charges for law library funds, the law enforcement training center

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

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

(f) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 8. K.S.A. 2012 Supp. 28-177 is hereby amended to read as follows: 28-177. (a) Except as provided in this section and K.S.A. 2012 Supp. 28-178, and amendments thereto, the fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filing fees or other fees related to access to court procedures. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$26.50 per fee or the amount established by the applicable statute, whichever amount is less, to fund the costs of non-judicial personnel.

(b) Such additional charge imposed by the court pursuant to K.S.A. 8-2107, 8-2110, 22-2410, ~~23-108a~~, 28-170, 28-172a, 59-104, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 and K.S.A. 2012 Supp. 21-6614, 23-2510, 28-178, 28-179, 32-1049a, 38-2215, 38-2312 and 38-2314, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire

amount in the state treasury to the credit of the judicial branch surcharge fund, which is hereby created in the state treasury.

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

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

Sec. 9. K.S.A. 2012 Supp. 28-178 is hereby amended to read as follows: 28-178.

(a) In addition to any other fees specifically prescribed by law, on and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose a charge, not to exceed \$12.50 per fee, to fund the costs of non-judicial personnel, on the following:

(1) A person who requests an order or writ of execution pursuant to K.S.A. 60-2401 or 61-3602, and amendments thereto.

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

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

(4) Persons who request a writ or order of sale pursuant to K.S.A. 60-2401 or 61-3602, and amendments thereto.

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

(6) A person who requests an attachment against the property of a defendant or any one or more of several defendants pursuant to K.S.A. 60-701 or 61-3501, and amendments thereto.

(b) The clerk of the district court shall remit all revenues received from the fees imposed pursuant to subsection (a) to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch surcharge fund.

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

Sec. 10. K.S.A. 2012 Supp. 28-179 is hereby amended to read as follows: 28-179.

(a) No post-decree motion petitioning for a modification or termination of separate maintenance, for a change in legal custody, residency, visitation rights or parenting time or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of ~~\$42 on and after July 1, 2009 through June 30, 2013, and~~ \$40 on and after July 1, 2013, to the clerk of the district court.

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

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in

accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

(d) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 11. K.S.A. 2012 Supp. 32-1049a is hereby amended to read as follows: 32-1049a. (a) Failure to comply with a wildlife, parks and tourism citation means failure to:

(1) Appear before any district court in response to a wildlife, parks and tourism citation and pay in full any fine, court costs, assessments or fees imposed;

(2) fully pay or satisfy all fines, court costs, assessments or fees imposed as a part of the sentence of any district court for violation of the wildlife, parks and tourism laws of this state; or

(3) otherwise comply with a wildlife, parks and tourism citation as provided in K.S.A. 32-1049, and amendments thereto.

Failure to comply with a wildlife, parks and tourism citation is a class C misdemeanor, regardless of the disposition of the charge for which such citation, complaint or charge was originally issued.

(b) The term "citation" means any complaint, summons, notice to appear, ticket, warrant, penalty assessment or other official document issued for the prosecution of the wildlife, parks and tourism laws or rules and regulations of this state.

(c) In addition to penalties of law applicable under subsection (a) when a person fails to comply with a wildlife, parks and tourism citation or sentence for a violation of wildlife, parks and tourism laws or rules and regulations, the district court in which the person should have complied shall mail a notice to the person that if the person does not appear in the district court or pay all fines, court costs, assessments or fees, and any penalties imposed within 30 days from the date of mailing, the Kansas department of wildlife, parks and tourism shall be notified to forfeit or suspend any license, permit, stamp or other issue of the department. Upon receipt of a report of a failure to comply with a wildlife, parks and tourism citation under this section, and amendments thereto, the department shall notify the violator and suspend or forfeit the license, permit, stamp or other issue of the department held by the violator until satisfactory evidence of compliance with the wildlife, parks and tourism citation or sentence of the district court for violation of the wildlife, parks and tourism laws or rules and regulations of this state are furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the department shall terminate the suspension action, unless the violator is otherwise suspended.

(d) Except as provided in subsection (e), when the district court notifies the department of a failure to comply with a wildlife, parks and tourism citation or failure to comply with a sentence of the district court imposed on violation of a wildlife, parks and tourism law or rule and regulation, the court shall assess a reinstatement fee of \$50 for each charge or sentence on which the person failed to make satisfaction, regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, court costs and other assessments, fees

or penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the state general fund.

(e) The district court shall waive the reinstatement fee provided for in subsection (d), if the failure to comply with a wildlife, parks and tourism citation was the result of such person enlisting in or being drafted into the armed services of the United States of America, being called into service as a member of a reserve component of the military service of the United States of America, or volunteering for such active duty or being called into service as a member of the Kansas national guard or volunteering for such active duty and being absent from Kansas because of such military service. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(f) Except as provided further, the reinstatement fee established in subsection (d) shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 12. K.S.A. 2012 Supp. 38-2215 is hereby amended to read as follows: 38-2215. (a) *Docket fee.* The docket fee for proceedings under this code, if one is assessed as provided in this section, shall be \$34. Only one docket fee shall be assessed in each case. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

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

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

(2) *Expenses.* Expenses may be assessed against the complaining witness, a person initiating the proceedings, a party or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state

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

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

Sec. 13. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual exploitation; K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2012 Supp. 21-5602,



and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(e) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge;

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

(h) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(i) Nothing in this section shall be construed to prohibit the maintenance of

information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

(j) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

(k) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

- (1) The person whose record was expunged;
  - (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
  - (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
  - (4) the secretary ~~of social and rehabilitation~~ for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department of social and rehabilitation for aging and disability services of any person whose record has been expunged;
  - (5) a person entitled to such information pursuant to the terms of the expungement order;
  - (6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
  - (7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
  - (8) the Kansas sentencing commission; or
  - (9) the Kansas bureau of investigation, for the purposes of:
    - (A) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or
    - (B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.
- (l) The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.

Sec. 14. K.S.A. 2012 Supp. 38-2314 is hereby amended to read as follows: 38-2314. (a) *Docket fee*. The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$34. Only one docket fee shall be assessed in each case. Except as provided further, the docket fee established in this section shall be the

only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

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

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

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

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

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

Sec. 15. K.S.A. 2012 Supp. 59-104 is hereby amended to read as follows: 59-104.

(a) *Docket fee.* (1) Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, without payment of an appropriate docket fee as follows, on and after July 1, 2013:

~~(A) On and after July 1, 2009 through June 30, 2013:~~

Treatment of mentally ill .....	\$59.00
Treatment of alcoholism or drug abuse .....	36.50
Determination of descent of property .....	51.50
Termination of life estate .....	50.50
Termination of joint tenancy .....	50.50
Refusal to grant letters of administration .....	50.50
Adoption .....	50.50
Filing a will and affidavit under K.S.A. 59-618a .....	50.50

Guardianship .....	71.50
Conservatorship .....	71.50
Trusteeship .....	71.50
Combined guardianship and conservatorship .....	71.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto .....	25.50
Decrees in probate from another state .....	110.50
Probate of an estate or of a will .....	111.50
Civil commitment under K.S.A. 59-29a01 seq. ....	35.50

(B) — On and after July 1, 2013:

Treatment of mentally ill .....	34.50
Treatment of alcoholism or drug abuse .....	34.50
Determination of descent of property .....	49.50
Termination of life estate .....	48.50
Termination of joint tenancy .....	48.50
Refusal to grant letters of administration .....	48.50
Adoption .....	48.50
Filing a will and affidavit under K.S.A. 59-618a .....	48.50
Guardianship .....	69.50
Conservatorship .....	69.50
Trusteeship .....	69.50
Combined guardianship and conservatorship .....	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto .....	23.50
Decrees in probate from another state .....	108.50
Probate of an estate or of a will .....	109.50
Civil commitment under K.S.A. 59-29a01 seq. ....	33.50

(2) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

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

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

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other

fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 16. K.S.A. 2012 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$156 on and after July 1, 2009 through June 30, 2013, and \$154 on and after July 1, 2013, to the clerk of the district court.~~ Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013, July 1, 2013, through July 1, 2015,~~ the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

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

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

State of Kansas, \_\_\_\_\_ County.

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

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

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

Sec. 17. K.S.A. 2012 Supp. 60-2203a is hereby amended to read as follows: 60-2203a. (a) After the commencement of any action in any district court of this state, or the courts of the United States in the state of Kansas or in any action now pending heretofore commenced in such courts, which does not involve title to real estate, any party to such action may give notice in any other county of the state of the pendency of the action by filing for record with the clerk of the district court of such other county a verified statement setting forth the parties to the action, the nature of the action, the court in which it is pending, and the relief sought, which shall impart notice of the pendency of the action and shall result in the same lien rights as if the action were pending in that county. The lien shall be effective from the time the statement is filed, but not to exceed four months prior to the entry of judgment except as provided in subsection (c). The party filing such notice shall within 30 days after any satisfaction of the judgment entered in such action, or any other final disposition thereof, cause to be filed with such clerk of the district court a notice that all claims in such action are released. If the party filing fails or neglects to do so after reasonable demand by any party in interest, such party shall be liable in damages in the same amounts and manner as is provided by law for failure of a mortgagee to enter satisfaction of a mortgage. Upon the filing of such a notice of the pendency of an action the clerk shall charge a fee of \$14 and shall enter and index the action in the same manner as for the filing of an original action. Upon the filing of a notice of release, the notice shall likewise be entered on the docket. Except as provided further, the fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per fee, to fund the costs of non-judicial personnel.

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

(c) Notwithstanding the foregoing provisions of this section, the filing of a notice of the pendency of an action pursuant to subsection (a) shall create no lien rights against the property of an employee of the state or a municipality prior to the date judgment is rendered if the pleadings in the pending action allege a negligent or wrongful act or omission of the employee while acting within the scope of such employee's employment, regardless of whether or not it is alleged in the alternative that the employee was acting outside of such employee's employment. A judgment against an employee shall become a lien upon such employee's property in the county where

notice is filed pursuant to subsection (a) when the judgment is rendered only if it is found that: (1) The employee's negligent or wrongful act or omission occurred when the employee was acting outside the scope of such employee's employment; or (2) the employee's conduct which gave rise to the judgment was because of actual fraud or actual malice of the employee. In such cases the lien shall not be effective prior to the date judgment was rendered. As used in this subsection (c), "employee" shall have the meaning ascribed to such term in K.S.A. 75-6102, and amendments thereto.

Sec. 18. K.S.A. 2012 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of ~~\$39 on and after July 1, 2009, through June 30, 2013, and \$37 on and after July 1, 2013,~~ if the claim does not exceed \$500; or ~~\$59 on and after July 1, 2009, through June 30, 2013, and \$57 on and after July 1, 2013,~~ if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.

(c) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$12.50 per docket fee, to fund the costs of non-judicial personnel.

Sec. 19. K.S.A. 2012 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. (1) No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of ~~\$37 on and after July 1, 2009, through June 30, 2013, and \$35 on and after July 1, 2013,~~ if the amount in controversy or claimed does not exceed \$500; ~~\$57 on and after July 1, 2009, through June 30, 2013, and \$55 on and after July 1, 2013,~~ if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or ~~\$103 on and after July 1, 2009, through June 30, 2013, and \$101 on and after July 1, 2013,~~ if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(2) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel.

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

Sec. 20. K.S.A. 2012 Supp. 65-409 is hereby amended to read as follows: 65-409.

(a) The clerk of the district court shall charge a fee of \$14 for entering and filing a lien statement under this act.

(b) Except as provided further, the lien fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such lien. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per lien fee, to fund the costs of non-judicial personnel.

Sec. 21. K.S.A. 2012 Supp. 8-2107, 8-2110, 21-6614, 22-2410, 23-2510, 28-170, 28-172a, 28-177, 28-178, 28-179, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 are hereby repealed.";

And by redesignating sections accordingly;

On page 1, in the title, by striking lines 1 through 3 and inserting:

"AN ACT concerning courts; relating to court fees and costs; relating to the judicial branch surcharge fund; amending K.S.A. 2012 Supp. 8-2107, 8-2110, 21-6614, 22-2410, 23-2510, 28-170, 28-172a, 28-177, 28-178, 28-179, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 and repealing the existing sections.";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE PAULS

*Conferees on part of House*

Senator King moved the Senate adopt the Conference Committee Report on **HB 2204**.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Absent or Not Voting: McGinn.

The Conference Committee Report was adopted.



**REPORTS OF STANDING COMMITTEES**

Committee on **Ways and Means** recommends **HB 2403**, as amended by House Committee, be amended on page 1, in line 23, by striking "5%" and inserting "4%"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2037** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2037," as follows:

"Senate Substitute for HOUSE BILL NO. 2037

By Committee on Federal and State Affairs

"AN ACT concerning certain state officers; amending K.S.A. 75-3727a and K.S.A. 2012 Supp. 75-4203 and repealing the existing sections.";

And the substitute bill be passed.

On motion of Senator Bruce, the Senate adjourned until 10:30 a.m, Wednesday, May 8, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks.*

DIANE MINEAR, *Secretary of the Senate.*

