

Journal of the House

SIXTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, April 26, 2018, 10:00 a.m.

The House met pursuant to adjournment with Speaker Ryckman in the chair.

The roll was called with 120 members present.

Reps. Dove, Murnan, Ohaebosim, Powell and Winn were excused on excused absence by the Speaker.

Excused later: Rep. Schwab.

Prayer by guest chaplain, Father Brian Schieber, pastor, St. Michael the Archangel Catholic Parish, Leawood, and guest of Rep. Tarwater.

Father, we praise you and thank you for your most precious gifts of human life and human freedom.

Touch the hearts of our lawmakers with the wisdom and courage to uphold conscience rights and religious liberty for all. Protect all people from being forced to violate their moral and religious convictions.

In your goodness, guard our freedom to live out our faith and to follow you in all that we do. May this great land of ours always be "one nation, under God, indivisible, with liberty and justice for all."

We ask this through Christ, our Lord. (USCCB)

The Pledge of Allegiance was led by Rep. Kessinger.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Tarwater are spread upon the Journal:

Good morning, Colleagues.

I am here today to introduce you to some important people from the school my children are attending. The St. Michael the Archangel Catholic School 7th grade is here today. St. Michael's is located in Leawood, Kansas as part of the Archdiocese of Kansas City in Kansas.

The community of St. Michael the Archangel Catholic School believes:

That children are sacred creations of God. As a Catholic school community – school, home and parish we must provide creative opportunities for children to learn and apply knowledge and skills in ways that draw them closer to God and one another;

That a safe, non-threatening learning environment promotes feelings of self-worth and school pride;

That all children want to and can be loved and respected, while showing love and respect for themselves and others to be successful learners, achieving their highest potential, make good decisions, taking responsibility for their actions;

That educating children is a shared vocation involving home, school and parish. The outstanding St. Michael school community works collaboratively to maintain high standards of excellence and are committed to continuous improvement;

Most importantly, St. Michael the Archangel Catholic School's first and foremost goal is to get our children into Heaven.

The children you see up here, were chosen because they represent the St. Michaels' mission well. That mission is to live, love, learn, and go forth to serve like Jesus. Rep. Tarwater introduced the following students: Cade Hintz, Camille Wallick, Brooks Oddo, Grace Heeb, Chris Dodson, Sophia Meyer.

In addition to the students, joining us are Pastor Fr. Brian Schieber, Principal Mike Cullinin, and Social Studies Teacher, Mrs. Jennifer Wells.

The rest of the 7th grade students, faculty and parent volunteers are with us in the gallery. Please join me in welcoming them all to the House.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committees as indicated:

Appropriations: **HB 2795**.

MESSAGES FROM THE GOVERNOR

HB 2496 approved on April 10, 2018.

Sub HB 2147, S Sub for HB 2184, HB 2580, HB 2581, HB 2639 approved on April 12, 2018.

HB 2232, HB 2454, HB 2477, HB 2606 approved on April 16, 2018.

HB 2444, HB 2482, HB 2597 approved on April 18, 2018.

HB 2145 approved on April 20, 2018.

HB 2599 approved on April 21, 2018.

Sub HB 2602, S Sub for HB 2701 approved on April 24, 2018.

MESSAGES FROM THE SENATE

Announcing passage of **HB 2228** as amended **Senate Substitute for HB 2228**.

MESSAGES FROM THE SENATE

The Senate concurs in House amendments to **Sub SB 423**.

CHANGE OF CONFEREES

Reps. Waymaster, Proehl, and Wolfe Moore are appointed to replace Reps. Proehl, Francis, and Lusker as members of the conference committee on **Sub HB 2194**.

Rep. Horn is appointed to replace Rep. Murnan as a member of the conference committee on **S Sub for HB 2028**.

On motion of Rep. Hineman, the House recessed until 11:00 a.m.

LATE MORNING SESSION

The House met pursuant to recess with Speaker Ryckman in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2796, AN ACT concerning education; relating to the Kansas school equity and enhancement act; BASE aid amounts; school district local option budgets; amending K.S.A. 2017 Supp. 72-5132, as amended by section 2 of 2018 Substitute for Senate Bill No. 423, and 72-5143, as amended by section 4 of 2018 Substitute for Senate Bill No. 423, and repealing the existing sections, by Committee on Appropriations.

HB 2797, AN ACT concerning education; relating to the Kansas school equity and enhancement act; local option budgets; local foundation aid; amending K.S.A. 2017 Supp. 72-5132, as amended by section 2 of 2018 Substitute for Senate Bill No. 423, 72-5143, as amended by section 4 of 2018 Substitute for Senate Bill No. 423, 72-5148, as amended by section 6 of 2018 Substitute for Senate Bill No. 423, 72-5157, 72-5158 and 72-5159 and repealing the existing sections, by Committee on Appropriations.

HB 2798, AN ACT concerning education; relating to the Kansas school equity and enhancement act; BASE aid amounts; school district local option budgets; amending K.S.A. 2017 Supp. 72-5132, as amended by section 2 of 2018 Substitute for Senate Bill No. 423, and 72-5143, as amended by section 4 of 2018 Substitute for Senate Bill No. 423, and repealing the existing sections, by Committee on Appropriations.

MESSAGES FROM THE SENATE

The Senate adopts the Conference Committee report to agree to disagree on **HB 2539**, and has appointed Senators Bowers, Fitzgerald and Faust-Goudeau as Second conferees on the part of the Senate.

The Senate adopts the Conference Committee report to agree to disagree on **HB 2042**, and has appointed Senators Estes, Olson and Faust-Goudeau as Second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **S Sub for HB 2028** and has appointed Senators V. Schmidt, Estes and Kelly as Second conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hineman, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 375**, **HB 2583**, **HB 2542**, **Sub HB 2556**, **HB 2476**, **S Sub for S Sub for HB 2386**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 375** 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;

By striking all on page 2;

On page 3, by striking all in lines 1 through 19 and inserting:

"New Section 1. The portion of K-15 from the southern city limits of the city of Clay Center, then south to its junction with K-82, is hereby designated as the master trooper Larry L. Huff memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the master trooper Larry L. Huff memorial highway.

New Sec. 2. The portion of United States highway 50 from its junction with K-61 southwest of the city of Hutchinson, then west to the northwestern city limits of the city of Sylvia, is hereby designated as the trooper Conroy G. O'Brien memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the trooper Conroy G. O'Brien memorial highway.

New Sec. 3. The portion of United States highway 54 from the western city limits of the city of Meade, then west to the eastern city limits of the city of Plains, is hereby designated as the trooper Jimmie Jacobs memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the trooper Jimmie Jacobs memorial highway.

New Sec. 4. The portion of K-96 from its western junction with interstate highway 235, then northwest to the eastern city limits of the city of Mount Hope, is hereby designated as the trooper Ferdinand "Bud" Pribbenow memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the trooper Ferdinand "Bud" Pribbenow memorial highway.

New Sec. 5. The portion of United States highway 83 from its junction with interstate highway 70, then north to the junction with United States highway 24, is hereby designated as the master trooper Dean A. Goodheart memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the master trooper Dean A. Goodheart memorial highway.

New Sec. 6. The portion of K-18 from its junction with interstate highway 70, then northeast to the western city limits of the city of Manhattan, is hereby designated as the trooper John McMurray memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the trooper John McMurray memorial highway.

New Sec. 7. The portion of United States highway 24 from its junction with United States highway 59 north of the city of Williamstown, then southeast to its junction with United States highway 40 north of the city of Lawrence, is hereby designated as the trooper Maurice R. Plummer memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the trooper Maurice R. Plummer memorial highway.

New Sec. 8. The portion of United States highway 59 from its junction with United States highway 56, then north to the southern city limits of the city of Lawrence, is hereby designated as the lieutenant Bernard C. Hill memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the lieutenant Bernard C. Hill memorial

highway.

New Sec. 9. The portion of United States highway 81 from its junction with United States highway 166, then north to the Sedgwick county line, is hereby designated as the trooper James D. Thornton memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the trooper James D. Thornton memorial highway.

New Sec. 10. On and after July 1, 2018, any sign that commemoratively designates a highway, bridge, interchange or trail in honor of an individual shall include, if applicable, the individual's:

(a) Rank, if a current or former member of law enforcement, the United States military or national guard; or

(b) title, if a current or former holder of an elected office or member of an elected body.

New Sec. 11. The portion of United States highway 69 from the junction of United States highway 69 and 167th street in Johnson county, then south on United States highway 69 to the junction of United States highway 69 and 215th street is hereby designated as the master deputy Brandon Collins memorial highway. Upon compliance with K.S.A. 2017 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the master deputy Brandon Collins memorial highway.

Sec. 12. K.S.A. 68-1024 is hereby amended to read as follows: 68-1024. Kansas highway No. 15 from the Nebraska-Kansas boundary line ~~on the north~~, then south to the southern city limits of Clay Center, then south from the junction with K-82 highway to the Kansas-Oklahoma boundary line ~~on the south~~ is hereby designated as "the Eisenhower memorial highway." The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the Eisenhower memorial highway.

Sec. 13. K.S.A. 68-1027 is hereby amended to read as follows: 68-1027. That portion of United States highway 50 from Emporia, then west to the junction with K-61 highway southwest of the city of Hutchinson, then west from the northwestern city limits of the city of Sylvia to Dodge City is hereby designated as the "turkey wheat trail highway," and the secretary of transportation is hereby directed to erect suitable signs and markers along such highway showing such designation.

Sec. 14. K.S.A. 2017 Supp. 68-1029 is hereby amended to read as follows: 68-1029. (a) The portion of United States highway 54 from the west city limits of the city of Greensburg, then south to the western city limits of the city of Meade, then in a southwesterly direction from the eastern city limits of the city of Plains to the Kansas-Oklahoma border, is hereby designated as "The Yellow Brick Road." The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is "The Yellow Brick Road," except that any additional signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

(b) The city of Liberal is hereby designated as "The Land of Oz" and "The Home of Dorothy of the Wizard of Oz."

Sec. 15. K.S.A. 68-1044 is hereby amended to read as follows: 68-1044. K-96 highway northwest from the ~~west city limits of the city of Wichita to the eastern city limits of the city of Mount Hope, then west to the~~ city limits of the city of Hutchinson is hereby designated as the State Fair freeway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the State Fair freeway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

Sec. 16. K.S.A. 68-1054 is hereby amended to read as follows: 68-1054. United States highway 83 from the Kansas-Nebraska border ~~on the north, then south to the junction with United States highway 24, then south from the junction with interstate highway 70~~ to the Kansas-Oklahoma border ~~on the south~~ is hereby designated the veterans of foreign wars memorial highway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the veterans of foreign wars memorial highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

Sec. 17. K.S.A. 2017 Supp. 68-1058 is hereby amended to read as follows: 68-1058. United States highway 24 from the west city limits of Topeka, then west on United States highway 24 to the west junction of United States highway 24 and K-177 highway, then south to the junction of K-177 highway and K-18 highway, then west on K-18 highway ~~through the to the western city limits of the city of Manhattan to the junction with interstate highway 70,~~ is hereby designated as the 75th division of the United States Army highway. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is the 75th division of the United States Army highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Sec. 18. K.S.A. 2017 Supp. 68-10,114 is hereby amended to read as follows: 68-10,114. (a) On and after July 1, 2015, the secretary of transportation shall not place any signs commemoratively designating any highway, bridge, interchange or trail until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

(b) The provisions of this section shall not apply to K.S.A. 2017 Supp. 68-10,119 and sections 1, 2, 3, 4, 5, 6, 7, 8 and 9, and amendments thereto.

Sec. 19. K.S.A. 2017 Supp. 68-10,119 is hereby amended to read as follows: 68-10,119. The portion of United States highway 75 from the northern border of Woodson county, then south on United States highway 75 to the northern city limits of the city of Yates Center is hereby designated as the sergeant Eldon K Miller memorial highway.

Upon compliance with K.S.A. 2017 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the sergeant Eldon K Miller memorial highway.";

Also on page 3, in line 20, before "K.S.A." by inserting "K.S.A. 68-1024, 68-1027, 68-1044, and 68-1054 and"; also in line 20, by striking " 8-1904 is" and inserting "68-1029, 68-1058, 68-10,114 and 68-10,119 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "ACT"; in line 2, by striking all before the second semicolon and inserting "concerning roads and highways; relating to memorial highways, contents of signs, master deputy Brandon Collins and members of the Kansas highway patrol killed in the line of duty"; also in line 2, after "amending" by inserting "K.S.A. 68-1024, 68-1027, 68-1044 and 68-1054 and"; in line 3, by striking "8-1904" and inserting "68-1029, 68-1058, 68-10,114 and 68-10,119"; also in line 3, by striking "section" and inserting "sections";

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

RICHARD J. PROEHL

SHANNON FRANCIS

Conferees on part of House

MIKE PETERSEN

DAN GODDARD

Conferees on part of Senate

On motion of Rep. Proehl, the conference committee report on **SB 375** was adopted.

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

Yeas: Alcalá, Alford, Arnberger, Aurand, Averkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Neighbor, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Dove, Huebert, Murnan, Ohaebosim, R. Powell, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2583** submits the following report:

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

On page 3, in line 13, by striking "three" and inserting "four"; also in line 13, by striking all after "be"; in line 14, by striking all before "one" and inserting "private landowners involved in agricultural production, one of whom shall be a Kansas producer who grows traditional Kansas crops, which, for the purposes of this paragraph, means wheat, corn, soybeans, milo, peanuts, cotton, hay or oats, one of whom shall be a Kansas producer who grows non-traditional Kansas crops, and"; in line 15, by striking "farmer" and inserting "producer"; by striking all in lines 22 through 25;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 8, in line 43, by striking "shall";

On page 9, in line 1, by striking all after "the"; in line 2, by striking all before the period and inserting "registry or registries identified by the secretary to provide location information about organic, sensitive or specialty crops";

On page 11, in line 27, by striking "within 15 days"; also in line 27, after "timeline" by inserting "within such 15 days' notice";

On page 13, in line 41, before "at" by inserting "who have been assessed a tax by the county";

On page 14, in line 10, before the period by inserting "in an amount equal to not less than 50% nor more than 75% of the total cost incurred by the county in purchasing, storing and handling such chemical materials used in the control and eradication of noxious weeds, and may make such charge for the use of machines or other equipment and operators as may be deemed by the board of county commissioners sufficient to cover the actual cost of operation. However, once the tax levying body of a county, city or township has appropriated a budget equivalent to 1.5 mills or more, the board of county commissioners may collect from the landowners in their jurisdiction an amount equal to 75% but not more than 100% of the total cost incurred by the county in purchasing, storing and handling of chemical materials used in the control and eradication of noxious weeds";

Also on page 14, in line 26, after the stricken material by inserting "The board of county commissioners of a county that funds its noxious weed program from the county general fund shall sell chemical materials to the landowners in its jurisdiction who have been assessed a tax by the county at a price fixed by the board of county commissioners in an amount equal to not less than 50% nor more than 75% of the total cost incurred by the county in purchasing, storing and handling such chemical materials used in the control and eradication of noxious weeds, and may make such charge for the use of machines or other equipment and the operators as may be deemed by the board of county commissioners sufficient to cover the actual cost of operation. However, once the tax levying body of a county, city or township has appropriated a budget equivalent to 1.5 mills or more, the board of county commissioners may collect from the landowners in its jurisdiction an amount equal to 75% but not more than 100% of the

total cost incurred by the county in purchasing, storing and handling of chemical materials used in the control and eradication of noxious weeds.

(d) ";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 15, in line 10, by striking "knowingly";

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

DAN KERSCHEN

BUD ESTES

MARCI FRANCISCO

Conferees on part of Senate

KYLE HOFFMAN

KENT THOMPSON

SYDNEY CARLIN

Conferees on part of House

On motion of Rep. Hoffman, the conference committee report on **HB 2583** was adopted.

On roll call, the vote was: Yeas 112; Nays 8; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcalá, Alford, Arnberger, Aurand, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jennings, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Neighbor, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: Awerkamp, Burris, Corbet, Garber, Highland, Jacobs, K. Jones, Smith, A..

Present but not voting: None.

Absent or not voting: Dove, Murnan, Ohaebosim, R. Powell, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2542** submits the following report:

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

On page 3, following line 38, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 75-3718b is hereby amended to read as follows: 75-

3718b. (a) On or before January 14, 2019, the secretary of administration, in consultation with the division of the budget, the office of revisor of statutes and the Kansas legislative research department, shall implement a budget process that accomplishes the following objectives:

(1) A program service inventory, to be complete on or before January 9, 2017. Such inventory shall include, but not be limited to, the following:

(A) Identification of agency programs and subprograms by objective, function and purpose;

(B) the state or federal statutory citation authorizing those programs, if any;

(C) identification of programs that are mandatory versus discretionary;

(D) a history of the programs, including interaction with other agency programs and objectives;

(E) state matching or other federal financial requirements;

(F) prioritization of the level of all programs and subprograms; and

(G) the consequence of not funding the program or subprogram.

(2) An integrated budget fiscal process, to be complete on or before January 6, 2018. Such process shall institute common accounting procedures consistent with budget development, budget approval, budget submission, through actual expenditures by fund.

(3) A performance based budgeting system, to be completed on or before January 14, 2019. Such budgeting system shall include, but not be limited to, the following:

(A) Incorporation of various outcome based performance measures, for state programs; and

(B) enhancement of the capability to compare program effectiveness across multiple state and political boundaries.

(b) The provisions of this section shall not apply to postsecondary educational institutions that have implemented the performance agreement pursuant to K.S.A. 74-3202d, and amendments thereto.;

Also on page 3, in line 39, by striking "is" and inserting "and 75-3718b are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "postsecondary educational institutions; relating to"; in line 2, by striking all after "act"; in line 3, by striking "date" and inserting "fee schedule; exempting certain postsecondary educational institutions from performance-based budgeting"; also in line 3, after "74-32,181" by inserting "and 75-3718b"; in line 4, by striking "section" and inserting "sections";

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

MOLLY BAUMGARDNER

LARRY ALLEY

PAT PETTEY

Conferees on part of Senate

CLAY AURAND

DIANA DIERKS

VALDENIA WINN

Conferees on part of House

On motion of Rep. Aurand, the conference committee report on **HB 2542** was adopted.

On roll call, the vote was: Yeas 93; Nays 27; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcalá, Alford, Aurand, Baker, Ballard, Barker, Becker, Bishop, Blex, Brim, Burroughs, Carlin, Carmichael, Clark, Clayton, Concannon, Cox, Crum, S., Curtis, E. Davis, Deere, Dierks, Dietrich, Elliott, Ellis, Eplee, Finch, Finney, Francis, Frownfelter, Gallagher, Gartner, Good, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Holscher, Horn, Jennings, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Lewis, Lusk, Lusker, Markley, Mastroni, Miller, Neighbor, Orr, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, Probst, Proehl, Rafie, Rahjes, Ralph, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, S. Swanson, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Wheeler, Whipple, K. Williams, Wolfe Moore.

Nays: Aramberger, Awerkamp, Bergquist, Burris, B. Carpenter, Claeys, Corbet, Delperdang, Esau, Garber, Hawkins, Helgerson, Hoffman, Houser, Huebert, Humphries, Jacobs, K. Jones, Landwehr, Mason, Osterman, Resman, Sutton, Tarwater, Thimesch, Weber, C., Whitmer.

Present but not voting: None.

Absent or not voting: Dove, Murnan, Ohaebosim, R. Powell, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2556** submits the following report:

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

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

CAROLYN MCGINN

RICK BILLINGER

TOM HAWK

Conferees on part of Senate

TOM SLOAN

GREG LEWIS

PAM CURTIS

Conferees on part of House

On motion of Rep. Sloan, the conference committee report on **Sub HB 2556** was adopted.

On roll call, the vote was: Yeas 114; Nays 6; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcalá, Alford, Aramberger, Aurand, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jennings, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether,

Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Neighbor, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: Awerkamp, Burris, Garber, Jacobs, K. Jones, Landwehr.

Present but not voting: None.

Absent or not voting: Dove, Murnan, Ohaebosim, R. Powell, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2476** 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 14 through 33;

By striking all on pages 2 through 10;

On page 11, by striking all in lines 1 through 36; following line 36, by inserting:

"Section 1. K.S.A. 2017 Supp. 45-230 is hereby amended to read as follows: 45-230. (a) No person shall knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in or derived from public records except:

(1) Lists of names and addresses from public records of the division of vehicles obtained under K.S.A. 74-2012, and amendments thereto;

(2) lists of names and addresses of persons licensed, registered or issued certificates or permits to practice a profession or vocation may be sold or given to, and received by, an organization of persons who practice that profession or vocation for membership, informational or other purposes related to the practice of the profession or vocation;

(3) lists of names and addresses of persons applying for examination for licenses, registrations, certificates or permits to practice a profession or vocation shall be sold or given to, and received by, organizations providing professional or vocational educational materials or courses to such persons for the sole purpose of providing such persons with information relating to the availability of such materials or courses;

(4) lists of names, addresses and other information from voter registration lists may be compiled, used, given, received, sold or purchased by any person, as defined in K.S.A. 2017 Supp. 21-5111, and amendments thereto, solely for political campaign or election purposes;

(5) lists of names and addresses from the public records of postsecondary institutions as defined in K.S.A. 74-3201b, and amendments thereto, may be given to, and received and disseminated by such institution's separately incorporated affiliates and supporting organizations, which qualify under section 501(c)(3) of the federal internal revenue code of 1986, for use in the furtherance of the purposes and programs of such institutions and such affiliates and supporting organizations; ~~and~~

(6) lists of names and addresses from public records of the secretary of state obtained under K.S.A. 2017 Supp. 84-9-523, and amendments thereto; and

(7) to the extent otherwise authorized by law.

(b) Any person subject to this section who knowingly violates the provisions of this section shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney in a sum set by the court not to exceed \$500 for each violation.

(c) The provisions of this section shall not apply to nor impose any civil liability or penalty upon any public official, public agency or records custodian for granting access to or providing copies of public records or information containing names and addresses, in good faith compliance with the Kansas open records act, to a person who has made a written request for access to such information and has executed a written certification pursuant to ~~subsection (c)(2)~~ of K.S.A. 45-220(c)(2), and amendments thereto.

(d) This section shall be a part of and supplemental to the Kansas open records act. Sec. 2. K.S.A. 2017 Supp. 45-230 is hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking lines 2 through 10; in line 11, by striking all before the period and inserting "public records; relating to the unlawful use of names derived from public records, exceptions; amending K.S.A. 2017 Supp. 45-230 and repealing the existing section";

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

BUD ESTES

ROB OLSON

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

JOHN BARKER

RONALD L. HIGHLAND

LOUIS E. RUIZ

Conferees on part of House

On motion of Rep. Highland, the conference committee report on **HB 2476** was adopted.

On roll call, the vote was: Yeas 91; Nays 29; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Amberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Blex, Brim, Burris, B. Carpenter, Claeys, Clark, Concannon, Corbet, Cox, E. Davis, Delperdang, Dierks, Dietrich, Elliott, Ellis, Eplee, Esau, Finch, Francis, Gallagher, Garber, Gartner, Good, Hawkins, Hibbard, Highland, Hineman, Hoffman, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Orr, Osterman, F. Patton, Phelps, Phillips, Proehl, Rafie, Rahjes, Ralph, Resman, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Ward, Waymaster, Weber, C., Wheeler, Whipple, Whitmer, K. Williams.

Nays: Alcalá, Bishop, Burroughs, Carlin, Carmichael, Clayton, Crum, S., Curtis, Deere, Finney, Frownfelter, Helgerson, Henderson, Highberger, Hodge, Holscher, Horn, Miller, Neighbor, Ousley, Parker, Pittman, Probst, Rooker, Ruiz, Stogsdill, Victors, Weigel, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Dove, Murnan, Ohaebosim, R. Powell, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2386** 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, following line 30, by inserting:

- "(9) Kansas real estate commission;
- (10) office of the attorney general;
- (11) department of insurance;"

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also, on page 2, following line 34, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 39-970 is hereby amended to read as follows: 39-970.

(a) As used in this section:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home or adult day care facility that is required to be licensed to operate by the secretary for aging and disability services.

(2) "Applicant" means an individual who applies for employment with an adult care home or applies to work for an employment agency or as an independent contractor who provides staff to an adult care home.

(3) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(4) "Department" means the Kansas department for aging and disability services.

(5) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(6) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(7) "Employment agency" means an organization or entity that has a contracted relationship with an adult care home to provide staff with direct access to consumers.

(8) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to an adult care home.

(9) "Secretary" means the secretary for aging and disability services.

(b) (1) No person shall knowingly operate an adult care home if, in the adult care home, there works any person who has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender

because of having committed an act ~~which~~ that if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2017 Supp. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2017 Supp. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2017 Supp. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2017 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 2017 Supp. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this ~~subsection (a)(1) paragraph~~, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this ~~subsection (a)(1) paragraph~~, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this ~~subsection (a)(1) paragraph~~, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2017 Supp. 21-5303, and amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection ~~(a)(2)(C)~~ (b)(2)(C) shall not apply to any person who is employed by an adult care home on or before July 1, 2010, and while continuously employed by the same adult care home or to any person during or upon successful completion of a diversion agreement.

(2) A person operating an adult care home may employ an applicant who has been convicted of any of the following if ~~five~~ six or more years have elapsed since ~~the applicant satisfied completion of~~ the sentence imposed or ~~the applicant~~ was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; ~~or if five~~ six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile

offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime ~~which that~~ is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, ~~or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-6326 or 21-6418~~; and amendments thereto, except those crimes listed in subsection ~~(a)(1) (b)(1)~~; (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017 Supp. ~~21-6419 through 21-6421~~ 21-6420, and amendments thereto, except those crimes listed in subsection ~~(a)(1) (b)(1)~~ and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2017 Supp. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this ~~subsection (a)(2) paragraph~~, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in ~~subsection (a)(2) this paragraph~~, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in ~~subsection (a)(2) this paragraph~~, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2017 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(3) A person operating an adult care home may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 2017 Supp. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 2017 Supp. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 2017 Supp. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 2017 Supp. 21-5924, and amendments thereto; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2017 Supp. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2017 Supp. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 2017 Supp. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled

substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 2017 Supp. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2017 Supp. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 2017 Supp. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2017 Supp. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 2017 Supp. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 2017 Supp. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2017 Supp. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 2017 Supp. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2017 Supp. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2017 Supp. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 2017 Supp. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 2017 Supp. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto.

The provisions of this paragraph (3) shall not apply to any person who is employed by an adult care home on or before July 1, 2018, and is continuously employed by the same adult care home or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(b)(c) No person shall operate an adult care home if such person has been found to be in need of a guardian or conservator, or both as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto the act for obtaining a guardian or a conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(e) The secretary for aging and disability services shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments

thereto, concerning persons working in an adult care home. The secretary shall have access to these records for the purpose of determining whether or not the adult care home meets the requirements of this section. The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in an adult care home to the secretary for aging and disability services. The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.

(2) The department shall require an applicant to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the adult care home.

(3) An applicant for employment in an adult care home shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a fee not to exceed \$19 of the total cost for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

~~(4)(c) For the purpose of complying with this section, the operator of an adult care home shall request from the Kansas department for aging and disability services information regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-~~

~~5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates to a person who works in the adult care home, or is being considered for employment by the adult care home, for the purpose of determining whether such person is subject to the provision of this section an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the operator of an adult care home shall receive from any employment agency ~~which~~ or independent contractor that provides employees to work in the adult care home written certification that such employees are not prohibited from working in the adult care home under this section. ~~For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the secretary for aging and disability services determines the search for such information could reasonably be performed and the information obtained within a two-week period.~~ For the purpose of complying with this section, a person who operates an adult care home may hire an applicant for provisional employment on a conditional one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of a request for information under this subsection. A provisional employee may only be supervised by an employee that has completed all training required by federal regulations, rules and regulations of the department and the adult care home's policies and procedures. No adult care home, the operator or employees of an adult care home or an employment agency, ~~or the operator or employees of an employment agency, or an independent contractor~~ shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such adult care home's compliance with the provisions of this section if such adult care home or employment agency acts in good faith to comply with this section.~~

~~(e) The secretary for aging and disability services shall charge each person requesting information under this section a fee equal to cost, not to exceed \$10, for each name about which an information request has been submitted to the department under this section.~~

~~(f)-(h) The secretary for aging and disability services shall provide each operator requesting information under this section with the criminal history record information concerning a pass or fail determination after review of any criminal history record information and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).~~

~~(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary shall notify each operator that requests information under~~

this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) The secretary for aging and disability services shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 2017 Supp. 38-2326, and amendments thereto, except for adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information and whether such information contains adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto.

(5) An operator who receives criminal history record information under this subsection shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph shall be an unclassified misdemeanor punishable by a fine of \$100.

(g) No person who works for an adult care home and who is currently licensed or registered by an agency of this state to provide professional services in the state and who provides such services as part of the work which such person performs for the adult care home shall be subject to the provisions of this section.

(h)(g) A person who volunteers in an adult care home shall not be subject to the provisions of this section because of such volunteer activity unless the volunteer performs equivalent functions to those performed by direct access employees.

(i) An operator may request from the Kansas department for aging and disability services criminal history information on persons employed under subsections (g) and (h):

(j)(h) No person who has been continuously employed by the same adult care home since July 1, 1992, shall be subject to the provisions of this section while employed by such adult care home.

(k)(i) The operator of an adult care home shall not be required under this section to conduct a background criminal history record check on an applicant for employment with the adult care home if the applicant has been the subject of a background criminal history record check under this act within one year prior to the application for employment with the adult care home. The operator of an adult care home where the applicant was the subject of such background check may release a copy of such

background check to the operator of an adult care home where the applicant is currently applying.

(h)(j) No person who is in the custody of the secretary of corrections and who provides services, under direct supervision in nonpatient areas, on the grounds or other areas designated by the superintendent of the Kansas soldiers' home or the Kansas veterans' home shall be subject to the provisions of this section while providing such services.

(m) ~~For purposes of this section, the Kansas bureau of investigation shall report any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, to the secretary for aging and disability services when a background check is requested.~~

(k) (1) All fees charged by the secretary for criminal history record checks conducted pursuant to this section shall be established by rules and regulations of the secretary.

(2) All moneys collected and remitted to the Kansas department for aging and disability services for fees charged for criminal history record checks conducted pursuant to this section shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the state licensure fee fund created by K.S.A. 39-930, and amendments thereto.

(l) The Kansas department for aging and disability services may implement the amendments made to this section by this act in phases for different categories of employers. The department shall adopt rules and regulations establishing dates and procedures for the implementation of the criminal history record checks required by this section, and such dates may be staggered to facilitate implementation of the criminal history record checks required by this section.

(m) Upon authorization by the secretary for aging and disability services, other state agencies may access an internet-based application portal that is operated and maintained by the Kansas department for aging and disability services for purposes of processing criminal history record information requests in accordance with this section. Agencies may not share criminal history record information or the resulting pass or fail determinations with any other agency. The secretary for aging and disability services may charge an authorized agency the amount of \$1 per request made pursuant to this subsection.

(n) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 3. K.S.A. 2017 Supp. 39-2009 is hereby amended to read as follows: 39-2009.

(a) As used in this section:

(1) "Applicant" means an individual who applies for employment with a center, facility, hospital or a provider of services or applies to work for an employment agency or as an independent contractor that provides staff to a center, facility, hospital or a provider of services.

(2) "Completion of the sentence" means the last day of the entire term of

incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(3) "Department" means the Kansas department for aging and disability services.

(4) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(5) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(6) "Employment agency" means an organization or entity that has a contracted relationship with a center, hospital, facility or provider of services to provide staff with direct access to consumers.

(7) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to a center, facility, hospital or provider of services.

(b) (1) No licensee shall knowingly operate a center, facility, hospital or be a provider of services if any person who works in the center, facility, hospital or for a provider of services:

(1)(A) Has a felony conviction for a crime against persons;

(B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their repeal, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or

(D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2017 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if committed by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2017 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the

Kansas department for children and families pursuant to K.S.A. 2017 Supp. 38-2226, and amendments thereto, and:

(A) ~~The person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the Kansas department for children and families; or~~

(B) ~~the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families;~~

(4) ~~has had a child removed from home based on a court order pursuant to K.S.A. 2017 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan;~~

(5) ~~has had parental rights terminated pursuant to the revised Kansas code for the care of children or a similar statute of another state; or~~

(6) ~~has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2017 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having committing an act that if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2017 Supp. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2017 Supp. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2017 Supp. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2017 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-~~

3517, prior to its repeal, or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 2017 Supp. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2017 Supp. 21-5303, and amendments thereto, or similar statutes of other states or the federal government.

(2) A licensee operating a center, facility or hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in paragraph (1); (B) article 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-6420, and amendments thereto, except those crimes listed in paragraph (1); (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2017 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and the criteria to be utilized by the secretary in evaluating any such waiver request.

(3) A licensee operating a center, facility, hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a

juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 2017 Supp. 21- 5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 2017 Supp. 21- 5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 2017 Supp. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 2017 Supp. 21-5924; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2017 Supp. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2017 Supp. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 2017 Supp. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 2017 Supp. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2017 Supp. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 2017 Supp. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2017 Supp. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 2017 Supp. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 2017 Supp. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2017 Supp. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 2017 Supp. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2017 Supp. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2017 Supp. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 2017 Supp. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 2017 Supp. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this paragraph shall not apply to any person who is employed by a center, facility, hospital or provider of services on or before July 1, 2018, and is continuously employed by the same center, facility, hospital or provider of services or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have

elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

~~(b)~~(c) No licensee shall operate a center, facility, hospital or be a provider of services if such person has been found to be an adult with an impairment in need of a guardian or a conservator, or both, as provided in the act for obtaining a guardian or conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in a center, facility, hospital or for a provider of services to the secretary for aging and disability services. The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.

(2) The department shall require an applicant to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the center, facility, hospital or for a provider of services.

(3) An applicant for employment in an center, facility, hospital or for a provider of services shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a fee not to exceed \$19 of the total cost for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless

or until a waiver is granted.

~~(e)(d)~~ The secretary shall ~~notify the~~ provide each licensee, within 10 business days, when the result of the national criminal history record check or other appropriate review reveals unfitness as specified in subsections (a)(1) through (6) with regard to the person who is the subject of the review requesting information under this section with a pass or fail determination after review of any criminal history record information in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

~~(d)~~ No licensee, its contractors or employees, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such licensee's compliance with the provisions of this section if such licensee acts in good faith to comply with this section.

(e) Any licensee or member of the staff who receives information concerning the fitness or unfitness of any person shall keep such information confidential, except that the staff person may disclose such information to the person who is the subject of the request for information. A violation of this subsection shall be an unclassified misdemeanor punishable by a fine of \$100.

~~(f)~~ The licensing agency may require a person seeking licensure or applying to work in a facility to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The licensing agency is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The licensing agency may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, work with, or provide services to individuals as applicable under this act.

~~(g)~~ The secretary shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding any criminal history information, including adjudications of a juvenile offender which if committed by an adult would have been a felony conviction for the purposes specified in this act. The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.

~~(h)~~ The secretary shall charge each person or licensee requesting information under this section a fee equal to cost for each person about which an information request has been submitted to the department under this section.

~~(i)(f)~~ For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall request from the Kansas department for aging and disability services ~~information regarding any criminal history information relating to a person who works in the center, facility, hospital or for a provider of services, or who is being considered for employment or volunteer work in the facility, center, hospital or with the service provider, for the purpose of determining whether such person is subject to the provisions of this section~~ an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the licensee operating a center, facility, hospital

~~or a provider of services shall report the dates of employment and separation of all persons working for the licensee operating a center, facility, hospital or a provider of services. For the purposes of complying with this section, any employment agency which provides employees to work in a center, facility, hospital or a provider of services shall request and receive an eligibility determination from the Kansas department for aging and disability services. Any licensee operating a center, facility, hospital or a provider of services will obtain written documentation that such employees are eligible to work receive from any employment agency or independent contractor that provides employees to work in the center, facility, hospital or for the provider of services written certification that such employees are not prohibited from working in the center, facility, hospital or for the provider of services under this section. For the purpose of complying with this section, a licensee may hire an applicant for provisional employment on a conditional one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of an eligibility determination under this subsection. As required by the patient protection and affordable care act, 42 U.S.C. § 18001, a person disqualified from employment due to a valid background check may appeal in accordance with requirements, standards, rules and regulations to be promulgated by the secretary. A provisional employee may only be supervised by an employee who has completed all training required by federal regulations, department rules and regulations and the center's, facility's, hospital's or provider of services' policies and procedures. No licensee, its contractors or employees, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such licensee's compliance with the provisions of this section if such licensee acts in good faith to comply with this section.~~

~~(j) No person who works for a center, facility or hospital and who is currently licensed or registered by an agency of this state to provide professional services in the state and who provides such services as part of the work which such person performs for the center, facility or hospital shall be subject to the provisions of this section.~~

~~(k) A licensee may request from the Kansas department for aging and disability services criminal history information on persons employed under subsection (j).~~

~~(H)(g) The licensee operating a center, facility, hospital or a provider of services shall not require an applicant under this section to be fingerprinted, if the applicant has been the subject of a background criminal history record check under this act within one year prior to the application for employment with the licensee operating a center, facility, hospital or a provider of services and has maintained a record of continuous employment, with no lapse of employment of over 90 days in any center, facility, hospital or a provider of services covered by this act.~~

~~(m) No person who is in the custody of the secretary of corrections and who provides services under direct supervision in non-patient areas on the grounds or other areas designated by the secretary of corrections shall be subject to the provisions of this section while providing such services.~~

Sec. 4. K.S.A. 2017 Supp. 65-5117 is hereby amended to read as follows: 65-5117. (a) As used in this section:

(1) "Applicant" means an individual who applies for employment with a home health agency or applies to work for an employment agency or as an independent contractor that provides staff to a home health agency.

(2) "Completion of the sentence" means the last day of the entire term of

incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(3) "Department" means the Kansas department for aging and disability services.

(4) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(5) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(6) "Employment agency" means an organization or entity that has a contracted relationship with a home health agency to provide staff with direct access to consumers.

(7) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to a home health agency.

(b) (1) No person shall knowingly operate a home health agency if, for the home health agency, there works any person who has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having committed an act ~~which~~ that if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2017 Supp. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2017 Supp. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2017 Supp. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2017 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto, commercial sexual

exploitation of a child, pursuant to K.S.A. 2017 Supp. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2017 Supp. 21-5303, and amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection ~~(a)~~ (b)(2)(C) shall not apply to any person who is employed by a home health agency on or before July 1, 2010, and while continuously employed by the same home health agency or to any person during or upon successful completion of a diversion agreement.

(2) A person operating a home health agency may employ an applicant who has been convicted of any of the following ~~if five six~~ or more years have elapsed since ~~the applicant satisfied completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if five six~~ or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; ~~or if the applicant has been granted a waiver of such six-year disqualification:~~ A felony conviction for a crime ~~which that~~ is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, ~~or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-6326 or 21-6418,~~ and amendments thereto, except those crimes listed in subsection ~~(a)~~ (b)(1); (B) ~~articles article~~ article 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017 Supp. ~~21-6419 through 21-6421~~ 21-6420, and amendments thereto, except those crimes listed in subsection ~~(a)~~ (b)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2017 Supp. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2017 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2017 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and the criteria to be utilized by the secretary in evaluating any such waiver request.

(3) A person operating a home health agency may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional

release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 2017 Supp. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 2017 Supp. 21- 5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 2017 Supp. 21- 5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21- 3843, prior to its repeal, or K.S.A. 2017 Supp. 21-5924; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2017 Supp. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2017 Supp. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 2017 Supp. 21- 5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 2017 Supp. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2017 Supp. 21- 5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 2017 Supp. 21- 5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2017 Supp. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 2017 Supp. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 2017 Supp. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2017 Supp. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 2017 Supp. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2017 Supp. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2017 Supp. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 2017 Supp. 21- 5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 21- 4018, prior to its repeal, or K.S.A. 2017 Supp. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this paragraph shall not apply to any person who is employed by a home health agency on or before July 1, 2018, and is continuously employed by the same home health agency or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or

adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

~~(b)(c)~~ No person shall operate a home health agency if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto the act for obtaining a guardian or a conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

~~(c)~~ The secretary of health and environment shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, concerning persons working for a home health agency. The secretary shall have access to these records for the purpose of determining whether or not the home health agency meets the requirements of this section.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in a home health agency to the secretary for aging and disability services. The Kansas bureau of investigation may charge to the Kansas department of health and environment for aging and disability services a reasonable fee for providing criminal history record information under this subsection.

(2) The department shall require an applicant to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the home health agency.

(3) An applicant for employment in an home health agency shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a fee not to exceed \$19 of the total cost for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the

fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

(d)(e) For the purpose of complying with this section, the operator of a home health agency shall request from the Kansas department for aging and disability services information regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates to a person who works for the home health agency or is being considered for employment by the home health agency, for the purpose of determining whether such person is subject to the provisions of this section. For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the secretary for aging and disability services determines the search for such information could reasonably be performed and the information obtained within a two-week period. For the purpose of complying with this section, the operator of a home health agency shall receive from any employment agency which provides employees to work for the home health agency written certification that such employees are not prohibited from working for the home health agency under this section an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, a person who operates a home health agency may hire an applicant for provisional employment on a conditional one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of a request for information under this subsection. A provisional employee may only be supervised by an employee who has completed all training required by federal regulations, rules and regulations of the department and the home health agency's policies and procedures. No home health agency, the operator or employees of a home health agency or an employment agency, or the operator or employees of an employment agency, which provides employees to work for the home health agency or an independent contractor shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such home health agency's compliance with the provisions of this section if such home health agency or

employment agency acts in good faith to comply with this section.

~~(e) The secretary for aging and disability services shall charge each person requesting information under this section a fee equal to cost, not to exceed \$10, for each name about which an information request has been submitted under this section.~~

~~(f)-(1) The secretary for aging and disability services shall provide each operator requesting information under this section with the criminal history record information concerning a pass or fail determination after review of any criminal history information and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto; in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).~~

~~(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary for aging and disability services shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary for aging and disability services shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.~~

~~(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary for aging and disability services shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.~~

~~(4) The secretary for aging and disability services shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 2017 Supp. 38-2326, and amendments thereto, except for adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information and whether such information contains adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2017 Supp. 21-5801, and amendments thereto.~~

~~(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph shall be an unclassified misdemeanor.~~

punishable by a fine of \$100.

~~(g) No person who works for a home health agency and who is currently licensed or registered by an agency of this state to provide professional services in this state and who provides such services as part of the work which such person performs for the home health agency shall be subject to the provisions of this section.~~

~~(h)(g) A person who volunteers to assist a home health agency shall not be subject to the provisions of this section because of such volunteer activity unless the volunteer performs functions equivalent to functions performed by direct access employees.~~

~~(i) An operator may request from the department of health and environment criminal history information on persons employed under subsections (g) and (h):~~

~~(j)(h) No person who has been continuously employed by the same home health agency since July 1, 1992, shall be subject to the requirements of this section while employed by such home health agency.~~

~~(k)(i) The operator of a home health agency shall not be required under this section to conduct a background criminal history record check on an applicant for employment with the home health agency if the applicant has been the subject of a background criminal history record check under this act within one year prior to the application for employment with the home health agency. The operator of a home health agency where the applicant was the subject of such background check may release a copy of such background check to the operator of a home health agency where the applicant is currently applying.~~

~~(l) For purposes of this section, the Kansas bureau of investigation shall only report felony convictions, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2017 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, to the secretary for aging and disability services when a background check is requested.~~

~~(m) No person who is in the custody of the secretary of corrections and who provides services, under direct supervision in non-patient areas, on the grounds or other areas designated by the superintendent of the Kansas soldiers' home or the Kansas veterans' home shall be subject to the provisions of this section while providing such services.~~

~~(n) (1) All fees charged by the secretary for criminal history record checks conducted pursuant to this section shall be established by rules and regulations of the secretary.~~

~~(2) All moneys collected and remitted to the department for fees charged for criminal history record checks conducted pursuant to this section shall be remitted to the state treasurer in accordance with K.S.A. 65-5113, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the state licensure fee fund created by K.S.A. 39-930, and amendments thereto.~~

~~(3) The department may implement the amendments made to this section by this act in phases for different categories of employers. The department shall adopt rules and regulations establishing dates and procedures for the implementation of the criminal history record checks required by this section, and such dates may be staggered to~~

facilitate implementation of the criminal history record checks required by this section.

(m) This section shall be part of and supplemental to the provisions of article 51 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 5. K.S.A. 2017 Supp. 75-4362 is hereby amended to read as follows: 75-4362.

(a) The director of the division of personnel services of the department of administration shall have the authority to establish and implement a drug screening program for persons taking office as governor, lieutenant governor, attorney general or members of the Kansas senate or house of representatives and for applicants for safety sensitive positions in state government, but no applicant for a safety sensitive position shall be required to submit to a test as a part of this program unless the applicant is first given a conditional offer of employment.

(b) The director also shall have the authority to establish and implement a drug screening program based upon a reasonable suspicion of illegal drug use by any person currently holding one of the following positions or offices:

- (1) The office of governor, lieutenant governor or attorney general;
- (2) members of the Kansas senate or house of representatives;
- (3) any safety sensitive position;
- (4) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive position;
- (5) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 et seq., and amendments thereto; or
- (6) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 et seq., and amendments thereto; ~~or~~
- ~~(7) any employee of a state veteran's home operated by the director of the Kansas commission on veterans affairs office as described in K.S.A. 76-1901 et seq. and K.S.A. 76-1951 et seq., and amendments thereto.~~

(c) Any public announcement or advertisement soliciting applications for employment in a safety sensitive position in state government shall include a statement of the requirements of the drug screening program established under this section for applicants for and employees holding a safety sensitive position.

(d) Except for a person who has access to a secured biological laboratory in the office of laboratory services of the department of health and environment, no person shall be terminated solely due to positive results of a test administered as a part of a program authorized by this section if:

- (1) The employee has not previously had a valid positive test result; and
- (2) the employee undergoes a drug evaluation and successfully completes any education or treatment program recommended as a result of the evaluation. Nothing herein shall be construed as prohibiting demotions, suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and amendments thereto.

(e) Except in hearings before the state civil service board regarding disciplinary action taken against the employee, the results of any test administered as a part of a program authorized by this section shall be confidential and shall not be disclosed publicly.

(f) The secretary of administration may adopt such rules and regulations as necessary to carry out the provisions of this section.

(g) "Safety sensitive positions" means the following:

- (1) All state law enforcement officers who are authorized to carry firearms;

(2) all state corrections officers;
 (3) all state parole officers;
 (4) heads of state agencies who are appointed by the governor and employees on the governor's staff;

(5) all employees with access to secure facilities of a correctional institution, as defined in K.S.A. 2017 Supp. 21-5914, and amendments thereto;

(6) all employees of a juvenile correctional facility, as defined in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(7) all employees within an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, who provide clinical, therapeutic or habilitative services to the clients and patients of those institutions; ~~and~~

(8) all employees who have access to a secured biological laboratory in the office of laboratory services of the department of health and environment; and

(9) all employees of the Kansas commission on veterans affairs office.";

Also on page 2, in line 35, by striking "is" and inserting "and K.S.A. 2017 Supp. 39-970, 39-2009, 65-5117 and 75-4362 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "labor" by inserting "and employment"; in line 3, after the semicolon by inserting "Kansas commission on veterans affairs office; drug screening programs; Kansas department for aging and disability services regarding certain providers and facilities; providing for licensure, employment and background checks of employees;"; also in line 3, after "and" by inserting "K.S.A. 2017 Supp. 39-970, 39-2009, 65-5117 and 75-4362 and"; in line 4, by striking "section" and inserting "sections";

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

BUD ESTES

ROB OLSON

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

JOHN BARKER

RONALD L. HIGHLAND

LOUIS E. RUIZ

Conferees on part of House

On motion of Rep. Barker, the conference committee report on **S Sub for S Sub for HB 2386** was adopted.

On roll call, the vote was: Yeas 108; Nays 11; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alcala, Alford, Arnberger, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Blex, Brim, Burris, Burroughs, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Elliott, Ellis, Eplee, Esau, Finch, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Hibbard, Highland, Hineman, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Neighbor, Orr, Osterman, Ousley, Parker, F. Patton,

Phelps, Phillips, Pittman, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: Aurand, Bishop, Carlin, Carmichael, Finney, Helgerson, Henderson, Highberger, Hodge, Probst, Ward.

Present but not voting: None.

Absent or not voting: Dove, Murnan, Ohaebosim, R. Powell, Schwab, Winn.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hineman, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S Sub for HB 2228**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Proehl to concur in Senate amendments to **S Sub for HB 2228**, Rep. Johnson, made a substitute motion to nonconcur, and asked for a conference. The motion prevailed.

Speaker Ryckman thereupon appointed Reps. Johnson, Phillips and Sawyer as conferees on the part of the House.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2365** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2365," as follows:

"Substitute for HOUSE BILL NO. 2365

By Committee on Appropriations

"AN ACT making and concerning appropriations for the fiscal years ending June 30, 2018, June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, for state agencies; authorizing and directing payment of certain claims against the state; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2017 Supp. 74-4920, 75-2263, 75-4209, 75-6706, 79-4804 and 82a-953a and repealing the existing sections."; and the substitute bill be passed.

(**Sub HB 2365** was thereupon introduced and read by title.)

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2799, AN ACT concerning education; relating to the Kansas school equity and enhancement act; BASE aid amounts; school district local option budgets; school district bonding authority; making and concerning appropriations for the fiscal years ending June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, and June 30, 2023,

for the department of education; amending K.S.A. 2017 Supp. 72-5132, as amended by section 2 of 2018 Substitute for Senate Bill No. 423, 72-5143, as amended by section 4 of 2018 Substitute for Senate Bill No. 423, and 72-5461, as amended by section 16 of 2018 Substitute for Senate Bill No. 423, and repealing the existing sections, by Committee on Appropriations.

REPORT ON ENROLLED BILLS

HB 2145, HB 2232, HB 2444, HB 2454, HB 2477, HB 2606 reported correctly enrolled, properly signed and presented to the Governor on April 10, 2018.

HB 2482, HB 2597, HB 2599, S Sub for HB 2600, Sub HB 2602, S Sub for HB 2701 reported correctly enrolled, properly signed and presented to the Governor on April 16, 2018.

On motion of Rep. Hineman, the House adjourned until 10:00 a.m., Friday, April 27, 2018.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

