

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Saturday, April 30, 2016, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 40 senators present.
Invocation by Reverend Cecil Washington, Jr.:

Heavenly Father, bring us today, into attitudes of gratefulness. We're able to look back, to look up and to look forward. We can look back over these months and see that Your presence has been with the Senators...the supporting staff and all who are working here, making laws to bless Your people. In the beginning, we asked You to be the Head Chef...to bring together the right mixture of ingredients, and help us maintain just the right temperature in our attitudes and actions. And Lord, You've done that. Like that Head Chef, who is topping off and completing a fine meal, top off and complete the work that You intended for this session. We look back in gratefulness. But we also look up to give You praise...to honor You and to recognize that You're not done with us. For, when we walk out of these halls, there'll still be work that You want us to do. You're still wanting to cook up some stuff. And You still want us to commit and serve, as humble waiters and waitresses. Lord, with all that in mind, we can look forward, thanking You in advance for how You shall continue to use us and continue to bless us. Because You said in Hebrews 13:5, You'd never leave and You'd never forsake. Thank You, that in gratefulness, we can look back, look up and look forward. I come to You again, in Jesus' name. Amen

The Pledge of Allegiance was led by President Susan Wagle.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Ways and Means: **SB 518**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1796—

A RESOLUTION congratulating and commending Zainab Dafalla
on receiving a 2016 Gates Millennium Scholarship.

WHEREAS, Zainab Dafalla, from Wyandotte High School in Kansas City, Kansas, has been selected as a 2016 Gates Millennium Scholar; and

WHEREAS, The Gates Millennium Scholars Program was established in 1999 to promote academic excellence and to provide opportunities for outstanding minority students with significant financial need to reach their highest potential; and

WHEREAS, This prestigious program selects only 1,000 exceptional students per year nationwide to receive a full scholarship covering the cost of tuition, fees, books and living expenses at a college or university of the student's choice and offers students leadership development, mentoring and academic and social support; and

WHEREAS, To qualify for the program, students must receive endorsements from an educator and a community member, hold a minimum grade point average of 3.3 and demonstrate leadership through community service or extracurricular or other activities; and

WHEREAS, During her sophomore year, Zainab Dafalla's school attendance and grade point average began to drop after her mother was severely injured by a gunshot to the head. However, the unexpected tragedy motivated Zainab to start facing the harsh realities in her life more constructively; and

WHEREAS, Zainab Dafalla began working harder in school and, now in her senior year, has risen to the top 10 percent of her class of 307 students. Zainab has also participated in numerous activities in her school and community, including the Upward Bound Math and Science program, the Youth Exchange and Study program, the Wyandotte High School Student Council and the Wyandotte High School girls' varsity soccer team. Additionally, Zainab has diligently balanced her high school and extracurricular activities with work so she can save money and help her parents pay rent: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Zainab Dafalla on receiving a 2016 Gates Millennium Scholarship. Zainab has exemplified academic excellence and leadership, and we wish her all the best for continued success in future academic, personal and career challenges and opportunities; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Pettey.

On emergency motion of Senator Pettey **SR 1796** was adopted unanimously.

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

SENATE RESOLUTION No. 1797—

A RESOLUTION congratulating and commending Darion Stafford on receiving a 2016 Gates Millennium Scholarship.

WHEREAS, Darion Stafford, from Washington High School in Kansas City, Kansas, has been selected as a 2016 Gates Millennium Scholar; and

WHEREAS, The Gates Millennium Scholars Program was established in 1999 to promote academic excellence and to provide opportunities for outstanding minority students with significant financial need to reach their highest potential; and

WHEREAS, This prestigious program selects only 1,000 exceptional students per year nationwide to receive a full scholarship covering the cost of tuition, fees, books and living expenses at a college or university of the student's choice and offers students leadership development, mentoring and academic and social support; and

WHEREAS, To qualify for the program, students must receive endorsements from an educator and a community member, hold a minimum grade point average of 3.3 and demonstrate leadership through community service or extracurricular or other activities; and

WHEREAS, Darion Stafford is the 2015-2016 deputy wing commander of the Air Force JROTC at Washington High School and a Kansas State Scholar; and

WHEREAS, Darion Stafford plans on attending Oklahoma State University to major in aviation and aspires to become a pilot: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Darion Stafford on receiving a 2016 Gates Millennium Scholarship. Darion has exemplified academic excellence and leadership, and we wish him all the best for continued success in future academic, personal and career challenges and opportunities; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Pettey.

On emergency motion of Senator Pettey **SR 1797** was adopted unanimously.

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

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

MESSAGE FROM THE HOUSE

The House did not adopt the conference committee report agree to disagree on **H Sub SB 402**.

The House adopts the Conference Committee report on **S Sub HB 2156**.

The House adopts the Conference Committee report on **HB 2456**.

The House adopts the Conference Committee report on **HB 2617**.

The House accedes to the request of the Senate for a conference on **S Sub HB 2059** and has appointed Representatives Schwartz, Boldra and Wilson as second conferees on the part of the House.

The House concurs in Senate amendments to **Sub HB 2289**, and requests return of the bill.

The House adopts the Conference Committee report on **SB 388**.

The House announced the appointment of Representatives O'Brien, Dove and Ousley as conferees on **H Sub SB 193**.

The House announced the appointment of Representative Tietze to replace Representative Scott as a conferee on **HB 2502**.

CHANGE OF CONFERENCE

Under the authority of the President, the Vice President announced the appointment of Senator Pettey as a member of the Conference Committee on **S Sub HB 2049** to replace Senator Haley.

The Vice President announced the appointment of Senator Abrams to replace Senator Masterson, Senator Arpke to replace Senator Denning and Senator Hensley to replace Senator Kelly as a members of the Conference Committee on **H Sub SB 193**.

On motion of Senator Bruce, the Senate recessed until the sound of the gavel.

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

ORIGINAL MOTION

Senator Senator Bruce moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub SB 168, H Sub 227; Sub SB 323; H Sub SB 337; SB 388; S Sub HB 2056; HB 2163, HB 2460, HB 2490.**

CONFERENCE COMMITTEE REPORT

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

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as House Substitute for Senate Bill No. 168, as follows:

On page 4, in line 31, by striking "2021" and inserting "2020";

On page 5, in line 32, by striking "2021" and inserting "2020";

On page 6, in line 24, by striking "2021" and inserting "2020";

On page 7, in line 1, following "74-4937" by inserting "(3),"; in line 6, by striking all following "(iii)"; by striking all in lines 7 through 23; in line 24, by striking "(iv)";

And by redesignating subsections, paragraphs and subparagraphs accordingly;

Also on page 7, in line 35, by striking "and"; following line 35, by inserting:

"(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county; and";

On page 9, in line 20, by striking "2016" and inserting "2021"; in line 29, after "74-4937" by inserting "(3),"; in line 31, after "as" by inserting ", commencing July 1, 2016,"; in line 39, before the comma, by inserting "and prior to the end of the subsequent 60-day waiting period";

On page 10, in line 1, after the period by inserting "The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.

(9) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.";

On page 13, in line 11, by striking "extend" and inserting "make a one-time extension to"; in line 32, by striking "2021" and inserting "2020";

On page 15, in line 17, by striking "extend" and inserting "make a one-time extension to"; in line 38, by striking "2021"; and inserting "2020"; in line 42, after "subsection" by inserting "(3),";

On page 16, in line 1, after "as" by inserting ", commencing July 1, 2016,"; following line 6, by inserting:

"(8) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.";

On page 18, following line 10, by inserting:

"Sec. 6. K.S.A. 74-4916 is hereby amended to read as follows: 74-4916. (1) Upon the death of a member before retirement, the member's accumulated contributions shall be paid to the member's beneficiary.

(2) (a) In the event that a member dies before retirement as a result of an accident arising out of and in the course of the member's actual performance of duty in the employ of a participating employer independent of all other causes and not as a result of a willfully negligent or intentional act of the member, an accidental death benefit shall be payable if: (A) A report of the accident, in a form acceptable to the board, is filed in the office of the executive director of the board within 60 days after the date of the accident causing such death and an application for such benefit, in such form and manner as the board shall prescribe, is filed in the office of the executive director of the board within two years of the date of the accident, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity; and (B) the board finds from such evidence as it may require, to be submitted in such form and manner as it shall prescribe, that the natural and proximate cause of death was the result of an accident arising out of and in the course of the member's employment with a participating employer independent of all other causes at a definite time and place. Such accidental death benefit shall be a lump-sum amount of \$50,000 and an annual amount of $\frac{1}{2}$ of the member's final average salary, and for members who were first employed by a participating employer and covered as a member of the system under the provisions of K.S.A. 74-49,301 et seq. and amendments thereto, an annual amount of 50% of such member's salary averaged over the final three years of such member's covered employment, which shall accrue from the first day of the month following the date of death and which shall be payable in monthly installments or as the board may direct, but, after June 30, 1982, in no case shall the accidental death benefit be less than \$100 per month. The accidental death benefit payments shall be paid to the surviving spouse of such deceased member, such payments to continue so long as such surviving spouse lives or if there is no surviving spouse, or in the case the spouse dies before the youngest child of such deceased member attains age 18 or before the youngest child of such deceased member attains age 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, or if there are one or more children of the member who are totally disabled and dependent on the member or spouse, then to the child or children of such member under age 18 or under age 23, if such child or children are full-time students as provided in K.S.A. 74-49,117, and amendments thereto, and to the child or children of the member who are totally disabled and dependent on the member or spouse, divided in such manner as the board in its discretion shall determine, to continue until the youngest surviving child dies or attains age 18 or attains age 23 if such child is a full-time student as provided in K.S.A. 79-49,117, and amendments thereto, or, in the case of the child or children who are totally

disabled and dependent on the member or spouse, until death or until no longer totally disabled, or if there is no surviving spouse or child eligible for accidental death benefits under this subsection (2) at the time of the member's death, then to the parent or parents of such member who are dependent on such member, to continue until the last such parent dies. All payments due under this subsection (2) to a minor shall be made to a legally appointed conservator of such minor or totally disabled child as provided in ~~subsection (7) of K.S.A. 74-4902, 74-49, 127,~~ and amendments thereto. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act.

(b) In construction of this section of the act there shall be no presumption that the death of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the person claiming under this subsection (2). In the event of the death of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that death was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) The annual benefit under this subsection (2) shall be reduced by any workers compensation benefit payable. If the workers compensation benefit is paid in a lump-sum, the amount of such reduction shall be calculated on a monthly basis over the period of time for which workers compensation benefits would have been payable had such lump-sum not been paid. For any recipient already in receipt of such benefits on the effective date of this act, no change in the original reduction for workers compensation benefits shall be applicable to benefits paid prior to July 1, 1994. In the event that a member should die as a result of an accident as described in this subsection (2), all elections or options previously made by the deceased member shall become void and of no effect whatsoever and the retirement system shall be liable only for the accidental death benefit, refund of accumulated contributions as described in subsection (1) and any insured death benefit that may be due. The benefit payable under this subsection (2) shall be known and referred to as the "accidental death benefit."

(3) (a) Upon the application of a member, or the member's appointing authority acting for the member, a member who is in the employ of a participating employer and becomes totally and permanently disabled for duty in the employ of a participating employer, by reason of an accident which occurred prior to July 1, 1975, may be retired by the board if: (A) The board finds the total and permanent disability to be the natural and proximate result of an accident causing personal injury or disease independent of all other causes and arising out of and in the course of the member's actual performance of duties as an employee of a participating employer; ~~and~~ (B) a report of the accident, in a form acceptable to the board is filed in the office of the executive director of the board within 200 days after the date of the accident causing such injury; ~~and~~ (C) such application for retirement under this provision, in such form and manner as shall be prescribed by the board, is filed in the office of the executive director of the board within two years of the date of the accident; ~~and~~ (D) after a medical examination of the

member has been made by or under the direction of a medical physician or physicians or any other practitioner holding a valid license to practice a branch of the healing arts issued by the state board of healing arts designated by the board and the medical physician or physicians or any other practitioner holding a valid license to practice a branch of the healing arts issued by the state board of healing arts report in writing to the board that the member is physically or mentally totally disabled for duty in the employ of a participating employer and that such disability will probably be permanent; and (E) the board finds that the member became permanently and totally disabled on a date certain based on the evidence furnished and the professional guidance obtained and that such disability was not the result of a willfully negligent or intentional act of the member. If the board shall so retire the applicant, the member shall receive annually an accidental total disability benefit equal to $\frac{1}{2}$ of the member's final average salary which shall accrue from the first day of the month following the date of such accidental total and permanent disability as found by the board payable in monthly installments or as the board may direct.

(b) In construction of this subsection (3) there shall be no presumption that the disability of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the member claiming under this subsection (3). In the event of the disability of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that disability was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) A member will continue to receive such accidental total disability benefit so long as the member is wholly and continuously disabled by such injury and prevented thereby from engaging in any gainful occupation or employment for which the member is reasonably qualified by reason of education, training or experience. The accidental loss of both hands by actual severance through or above the wrist joint, or the accidental loss of both feet by actual severance through or above the ankle joint or the entire and irrecoverable accidental loss of sight of both eyes, or such severance of one hand and one foot, and such severance of one hand or one foot and such loss of sight of one eye, shall be deemed accidental total and permanent disability and accidental total disability benefits shall be paid so long as the member lives.

(d) Any retirant retired by reason of such accidental total and permanent disability who has been receiving benefits under the provisions of this subsection (3) for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees has reasonable grounds to question whether the retirant remains totally and permanently disabled, a further medical examination or examinations may be required. Refusal or neglect to submit to examination shall be sufficient cause for suspending or discontinuing the accidental total disability benefit. If the refusal or neglect continues for a period of one year, all of the member's rights with respect to such accidental total disability benefit may be revoked by the board.

(e) In the event that a retirant who is receiving an accidental total disability benefit dies within five years after the date of the retirant's retirement, an accidental death benefit shall then be payable as provided in subsection (2) of this section.

(f) A member who retires under the provisions of this subsection (3) shall receive

such benefits as provided in this subsection (3) in lieu of all other retirement benefits provided under the retirement system except that no member shall be entitled to receive any payments under this subsection (3) for a period for which insured disability benefits are received.

(g) The value, as determined by the board upon recommendation of the actuary, of any workmen's compensation benefits paid or payable to the recipient of an accidental total disability benefit shall be deducted from the amount payable under this section.

(h) The benefit payable under subsection (3) of this section shall be known and referred to as "accidental total disability benefit."

(4) The payment of benefits as provided in this section is subject to the provisions of K.S.A. 74-49,123, and amendments thereto.

Sec. 7. K.S.A. 2015 Supp. 74-4927 is hereby amended to read as follows: 74-4927.

(1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to $66\frac{2}{3}\%$ of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) ~~For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs.~~ The right to receive such long-term disability benefit shall cease; (i) For a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs; and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under ~~subsection (3) of~~ K.S.A. 74-4916(3), and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such

member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary for children and families and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with ~~subsection (17) of K.S.A. 74-4902(17)~~, and amendments thereto, except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. ~~Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.~~

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability.

~~Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.~~

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided

by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. ~~For the period commencing July 1, 2013, and ending June 30, 2015, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .85% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. For the period commencing July 1, 2015, and all periods thereafter, Each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer other than the state of Kansas shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2013 2016, and ending on June 30, 2013 2017. Notwithstanding the provisions of this subsection, the state of Kansas shall not appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on March 25, 2016, and ending on June 30, 2017.~~

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of ~~subsection (4) of~~ K.S.A. 74-4920(4), and amendments thereto, shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the

optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 8. K.S.A. 2015 Supp. 74-4986o is hereby amended to read as follows: 74-4986o. (a) For each DROP member, the board shall calculate a monthly DROP accrual. The system shall determine the DROP member's retirement benefit under K.S.A. 74-4958 or 74-4958a, and amendments thereto. In determining the retirement benefit, the system shall use the member's total service credit and final average salary as of the last day of the employer's payroll period immediately prior to the effective date of the member's election to participate in the DROP. Before entering the DROP, a member may elect to have such member's retirement benefit determined under one of the options provided in K.S.A. 74-4964 or 74-4964a, and amendments thereto, in lieu of having it determined in the form stated in K.S.A. 74-4958 or 74-4958a, and amendments thereto, except such member may not elect the lump sum payment option. During the DROP period, an amount equal to the monthly DROP accrual shall be credited to the member's DROP account. The calculation of the monthly DROP accrual will be calculated using the member's age and, if the member elected a joint and survivor option, the age of the beneficiary as of the calendar year which contains the beginning of the DROP period. The monthly DROP accrual shall comply with the requirements of section 401(a)(9) of the federal internal revenue code and treasury regulation § 1.401(a)9-6, Q&A-2(c).

(b) A member shall not receive a monthly retirement benefit, as calculated pursuant to K.S.A. 74-4958 or 74-4958a, and amendments thereto, until termination of such member's DROP participation and commencement of retirement. A DROP member shall not have any claim to any funds in such member's DROP account until such member retires at the termination of such member's DROP participation. Upon terminating DROP participation, a member is entitled to such member's retirement benefit, including any postretirement benefit adjustment for which the member is eligible and any change in the retirement benefit resulting from the recalculation of the member's final average salary as provided in subsection (c).

(c) A member may have such member's final average salary recalculated at the time of retirement to include any payments of the member's accumulated sick and annual leave compensation made at retirement. If the member's recalculated final average salary is higher than the final average salary used in calculating the member's monthly DROP accrual, the retirement benefit shall be based on the recalculated final average salary.

(d) An amount equal to the difference between the member's monthly DROP accrual and the monthly retirement benefit calculated under subsection (c), if any, times the number of months the member participated in the DROP, shall be credited as a lump sum to the member's DROP account at termination of participation and commencement of retirement. No interest shall be credited to such lump sum credit.

(e) If a member who selected a joint and survivor retirement benefit option dies during the DROP period, the joint survivor benefit shall be calculated as provided in subsection (c) and any lump sum credit that would have been payable to the member under subsection (d) shall be applied prior to distribution of the DROP account to the member's beneficiary as provided in K.S.A. 2015 Supp. 74-4986p(b), and amendments thereto.

Sec. 9. K.S.A. 2015 Supp. 74-4986p is hereby amended to read as follows: 74-4986p. (a) A member's participation in the DROP ceases on the occurrence of the earliest of the following:

- (1) Termination of the member's active service with the Kansas highway patrol;
- (2) the last day of the member's elected DROP period that begins on the effective date of the member's election to participate in the DROP;
- (3) retirement due to disability as defined in K.S.A. 74-4952, and amendments thereto; or
- (4) the member's death.

(b) If a member dies before taking a distribution from such member's DROP account, the member's designated beneficiary shall receive a lump-sum payment equal to the member's DROP account balance, including any lump sum credited as provided in K.S.A. 2015 Supp. 74-4986o(d), and amendments thereto. If the DROP member has not named a beneficiary for such member's DROP account, the amount in the DROP account shall be paid to the beneficiary of the member's retirement benefit.

Sec. 10. K.S.A. 2015 Supp. 74-4986q is hereby amended to read as follows: 74-4986q. (a) A member, who satisfies the requirements of this act, shall be entitled to a distribution of such member's DROP account, including any lump sum credited as provided in K.S.A. 2015 Supp. 74-4986o(d), and amendments thereto. Such distribution may be through any combination of the following payout options, each of which is subject to the applicable provisions of the federal internal revenue code and the

applicable regulations of the internal revenue service:

- (1) A direct rollover to an eligible retirement plan; or
- (2) a lump-sum distribution.

(b) The board may specify minimum account balances for purposes of allowing benefit payment options and rollovers in accordance with federal law.

Sec. 11. K.S.A. 2015 Supp. 74-49,313 is hereby amended to read as follows: 74-49,313. (a) Except as provided in subsection (e), a member who has a nonforfeitable interest in the member's retirement annuity account, at any time after termination from service and the attainment of normal retirement age, shall receive an annuity based upon the balance in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate equal to the actuarial assumed investment rate of return established by the board minus 2%, as of the member's annuity start date. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(b) Except as provided in subsection (e), a member who has a vested interest in the member's retirement annuity account, who terminates covered employment, without forfeiting such member's account, with the completion of at least 10 years of service, shall be eligible to receive, upon attainment of age 55, an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the legislature as of the member's annuity start date, and such interest rate shall ~~initially be 6% equal to the actuarially assumed investment rate of return established by the board minus 2%, as of the member's annuity start date.~~ The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(c) The form of benefit payable under subsections (a) and (b) shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918, and amendments thereto, except the partial lump-sum option, subject to actuarial factors established by the board from time to time. The benefit option selected may include a self-funded cost-of-living adjustment feature, in which the account value is converted to a benefit amount that increases by a fixed percentage over time. One or more fixed percentages shall be established by the board, which may be changed from time to time. In lieu of a part of an annuity, for a member entitled to a benefit under subsection (a), the member may elect to receive a lump-sum of such member's retirement annuity account of any fixed dollar amount or percent, but in no event may the lump-sum option elected under this section and the lump-sum option elected under ~~subsection (a) of~~ K.S.A. 2015 Supp. 74-49,311(a), and amendments thereto, exceed 30% of the total value of such member's annuity savings account and retirement annuity account.

(d) Except as provided in subsection (e), in the case of an active or inactive member:

- (1) Who is vested in the member's retirement annuity account;
- (2) who has five or more years of service at death; and
- (3) who dies before attaining normal retirement age, with such member's spouse at

time of death designated as such member's sole primary beneficiary, the member's surviving spouse on and after the date the member would have attained normal retirement age had such member not died, shall receive an annuity based upon employer credits and interest credits in the retirement annuity account, using factors established by the board by official action as of the beneficiary's annuity start date. The form of benefit shall be a single life annuity with 10-year certain.

(e) If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balance or balances shall be mandatorily distributed to the member in accordance with section 401(a)(31)(B) of the federal internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly, then the board will pay the distribution to the member directly.

Sec. 12. K.S.A. 2015 Supp. 74-49b10 is hereby amended to read as follows: 74-49b10. (a) The board is authorized to enter into a voluntary participation agreement with any employee of the state whereby a portion of the employee's salary or compensation from the state shall be deferred and deducted each payroll period in accordance with subsection (b) and the Kansas public employees deferred compensation plan. Such participation agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to ~~subsection (e) of~~ K.S.A. 2015 Supp. 74-49b09(c), and amendments thereto, as a result of the administration of this act.

(b) Pursuant to this act and such participation agreements, the director of accounts and reports, as a part of the system of regular payroll deductions and using funds either appropriated or otherwise available for such purpose, shall establish a system for the following purposes: (1) To defer each payroll period the amounts authorized in such participation agreements from the salary or compensation of each employee who has entered into a participation agreement; and

(2) to remit these moneys in accordance with the Kansas public employees deferred compensation plan.

(c) (1) Pursuant to section 401(a) of the federal internal revenue code, the board may establish a qualified plan under which the state may contribute a specified amount, subject to appropriations, to the deferred compensation plan for state employees who have entered into a voluntary participation agreement with the board under this section.

(2) Any state agency that has on its payroll persons participating in any qualified plan established under subsection (c)(1), shall pay from any moneys available to the state agency for such purpose an amount specified in the qualified plan, subject to appropriations for that purpose.

(d) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any loss incurred by any participant under the Kansas public employees deferred compensation plan established and approved pursuant to this act.

(e) Notwithstanding the provisions of K.S.A. 74-4909(10), and amendments thereto, for those employees who entered into a voluntary participation agreement pursuant to the provisions of this section or K.S.A. 2015 Supp. 74-49b15, and

amendments thereto, and who are also members of a retirement system administered by the board, the board may share information from the participants' retirement or pension system accounts with a contracting party pursuant to the provisions of K.S.A. 2015 Supp. 74-49b09, and amendments thereto, for the purpose of facilitating the participants' comprehensive retirement income planning.

(f) Any amount of the employee's salary or compensation that is deferred on a pre-tax basis under such an authorized participation agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee, but, Any sum so deferred or deducted shall not be subject to any state or local income taxes for the year in which such sum is earned contributed but shall be subject to applicable state and local income taxes for the year in which such sum is distributed. Any amounts contributed to a Roth 457 plan under this act shall be subject to state withholding and income taxes for the year in which such sum is contributed to the plan, but shall not be subject to applicable state income taxes for the year in which distributions are received by the employee, unless the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, provide otherwise.

(f)-(g) A deferred compensation clearing fund shall be established in the state treasury in which all compensation deferred, deducted or contributed in accordance with this act and as provided for in each participation agreement shall be temporarily placed.

Sec. 13. K.S.A. 2015 Supp. 74-49b14 is hereby amended to read as follows: 74-49b14. (a) The board may enter into an agreement with any local government of the state of Kansas making the services under contracts entered into by the board under ~~subsection (b) of K.S.A. 2015 Supp. 74-49b09(b)~~, and amendments thereto, available to the local government, subject to the terms and conditions of those contracts and the agreement entered into between the board and the local governmental unit, if the local governmental unit meets all of the following conditions: (1) The local governmental unit meets the definition of eligible employer as defined in K.S.A. 74-4902, and amendments thereto;

(2) the governing body of the local governmental unit has enacted an ordinance or resolution adopting the terms of the deferred compensation plan for state employees established under K.S.A. 2015 Supp. 74-49b09, and amendments thereto, as the local government deferred compensation plan for the employees of that local governmental unit; and

(3) the governing body certified that the local governmental unit will make such local government deferred compensation plan available to its employees and will administer it in accordance with the provisions of this act, section 457 of the federal internal revenue code of 1986, and amendments thereto, and the deferred compensation plan established by the board under K.S.A. 2015 Supp. 74-49b09, and amendments thereto.

(b) Pursuant to section 401(a) of the federal internal revenue code, and subject to the provisions of K.S.A. 2015 Supp. 74-49b10, and amendments thereto, the board may establish a qualified plan under which local governmental units participating in the deferred compensation plan may contribute a specified amount to such plan.

(c) Except for such agreement, the board or any other state officer or employee shall not be involved nor incur any expense in the administration of a plan adopted by a

local governmental unit under subsection (a) or (b), except to the extent that such costs are reimbursed under one or both of the methods identified in ~~subsection (c)~~ of K.S.A. 2015 Supp. 74-49b09(c), and amendments thereto.

~~(c)~~(d) The state shall not be responsible for any loss incurred by or obligation of any local governmental unit participant under a local government deferred compensation plan established as provided pursuant to subsection (a) or (b).

Sec. 14. K.S.A. 2015 Supp. 74-49b15 is hereby amended to read as follows: 74-49b15. (a) Subject to the agreement entered into under the provisions of K.S.A. 2015 Supp. 74-49b14, and amendments thereto, the governing body of a local government unit may establish such conditions as the governing body deems advisable to govern the voluntary participation of its employees in the local government deferred compensation plan established by the local governmental unit under the provisions of K.S.A. 2015 Supp. 74-49b14, and amendments thereto.

(b) Any amount of an employee's salary or compensation that is deferred on a pre-tax basis under such plan an authorized participation agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by such employee, ~~but~~. Any sum so deferred or deducted shall not be subject to ~~any~~ state ~~or local~~ income tax for the year in which such sum is ~~earned~~ contributed but shall be subject to applicable state ~~and local~~ income taxes for the year in which ~~such sum is~~ distributions are received by the employee. Any amounts contributed to a Roth 457 plan under this act shall be subject to state withholding and income taxes for the year in which such sum is contributed to the plan, but shall not be subject to applicable state income taxes for the year in which distributions are received by the employee, unless the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, provide otherwise.;

And by renumbering sections accordingly;

Also on page 18, in line 11, following "K.S.A." by inserting "74-4916 and"; also in line 11, following "74-4914," by inserting "74-4927,"; in line 12, by striking "and" and inserting a comma; also in line 12, following "74-4957" by inserting ", 74-4986o, 74-4986p, 74-4986q, 74-49,313, 74-49b10, 74-49b14 and 74-49b15";

On page 1, in the title, in line 10, before "amending" by inserting " Kansas deferred retirement option program act; final average salary; distribution of DROP account; death and long-term disability benefits; employer payments to group insurance reserve fund; Kansas public employees retirement system act of 2015; accidental death benefit; annuity interest rate; Kansas public employees deferred compensation act; sharing of account information; tax treatment; local governmental unit plan option;" also in line 10, following "K.S.A." by inserting "74-4916 and"; in line 11, following the comma, by inserting "74-4927,"; also in line 11, by striking "and" and inserting a comma; also in line 11, following "74-4957" by inserting ", 74-4986o, 74-4986p, 74-4986q, 74-49,313, 74-49b10, 74-49b14 and 74-49b15";

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

STEVEN JOHNSON
KENT THOMPSON
ED TRIMMER

Conferees on part of House

JEFF KING
 GREG SMITH
 ANTHONY HENSLEY
Conferees on part of Senate

Senator King moved the Senate adopt the Conference Committee Report on **H Sub SB 168**.

On roll call, the vote was: Yeas 36; Nays 4; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Masterson, McGinn, Olson, Ostmeyer, Petersen, Pettey, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Nays: Lynn, Melcher, O'Donnell, Pilcher-Cook.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 227** 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 as House Substitute for Senate Bill No. 227, as follows:

On page 1, by striking all in lines 7 through 29;

By striking all on pages 2 through 8;

On page 9, by striking all in lines 1 through 34 and inserting:

"Section 1. The intent of this act is to provide a mechanism to allow real property with environmental contamination to be purchased without the purchaser becoming liable for cleanup costs. This act establishes the contaminated property redevelopment fund to help municipalities redevelop contaminated and potentially contaminated properties. This act shall be known and may be cited as the contaminated property redevelopment act.

Sec. 2. As used in this act:

(a) "Certificate of environmental liability release" or "CELR" means a certificate issued by the department that releases the purchaser from environmental liability for contamination existing at the time of issuance of the CELR on a property from actions taken by the bureau of environmental remediation under K.S.A. 65-159, 65-161 through 65-171z, 65-3401 et seq., 65-3430 et seq. and 65-3452a et seq., and amendments thereto.

(b) "Department" means the Kansas department of health and environment.

(c) "Owner" means any owner of record of property or authorized representative.

(d) "Person" means any individual, trust, firm, joint stock company, public or private corporation, limited liability company or partnership; the federal government or any agency or instrumentality thereof; any state, or any agency, instrumentality or political or taxing subdivision thereof; or any interstate body.

(e) "Property" means real property.

(f) "Purchaser" means any person who is acquiring property through purchase,

foreclosure or default. For purposes of this act, "purchaser" does not include the federal government or a person who acquires property through gifts, bequests or inheritance.

(g) "Secretary" means the secretary of health and environment.

(h) "Site" means all areas and media to which environmental contamination or pollution has been released, transported or migrated.

Sec. 3. (a) A property shall be eligible for a CELR from the department if the purchaser submits a complete application to the department and the department finds that:

(1) The property is contaminated, not including contamination resulting from radon, lead-based paint or asbestos;

(2) the purchaser is not the party responsible for the contamination;

(3) the property is:

(A) Not currently owned by the purchaser;

(B) currently owned by the purchaser and was acquired through seizure, condemnation, foreclosure or default; or

(C) currently owned by the purchaser and the purchaser is the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof; or any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof;

(4) if the purchaser is a current owner, the purchaser could not have reasonably foreseen the threat of contamination and failed to take reasonable steps to prevent the contamination;

(5) there is no direct or indirect familial relationship or any contractual, corporate or financial relationship between the purchaser and the owner or the party responsible for the contamination, other than that by which such purchaser's interest in the property was conveyed or financed; and

(6) the property is not ineligible for a CELR pursuant to the provisions of section 4, and amendments thereto, and the purchaser has met the conditions required by section 4, and amendments thereto.

(b) It shall be the sole responsibility of the purchaser to provide the needed documentation to the department for the department to make an eligibility determination. These documents shall include:

(1) Phase I or Phase II environmental reports that are completed within industry standards;

(2) environmental assessment reports that are completed within industry standards; or

(3) other reports that will expedite the department's determination requested by the department.

(c) In making eligibility determinations, the department shall have authority to consider such additional factors as deemed relevant by the department, including the current and potential future use of the property.

(d) The department shall make a determination of eligibility or noneligibility within 15 business days of receiving the application and all required information.

(e) Only property acquired after July 1, 2016, shall be eligible for a CELR.

Sec. 4. (a) In addition to the findings required for a determination of eligibility by the department pursuant to section 3, and amendments thereto, the department shall

only grant a CELR upon the following conditions:

(1) The department determines that the purchaser has not caused or exacerbated and will not exacerbate the contamination on the property;

(2) the purchaser agrees to disclose the CELR to subsequent purchasers until the property can be used for unrestricted use;

(3) the purchaser agrees to reasonable access for future environmental investigation and remediation by the department or other party performing investigation and remediation under the oversight of the department; and

(4) the purchaser agrees to provide the department notification within 30 days of any transfer or sale of property that is subject to a CELR.

(b) Property shall not be eligible for a CELR if:

(1) The contamination on the property is subject to regulation under the nuclear energy development and radiation control act, K.S.A. 48-1601 et seq., and amendments thereto;

(2) the property is the source of the contamination and it is eligible for cleanup under the Kansas storage tank act, K.S.A. 65-34,100 et seq., or the Kansas drycleaner environmental response act, K.S.A. 65-34,141 et seq., and amendments thereto, unless the site has been enrolled into the appropriate cleanup program under such acts as applicable;

(3) the property is the source of the contamination and it is listed or proposed for listing on the national priorities list of superfund sites established under the comprehensive environmental response, compensation and liability act (CERCLA) (42 U.S.C.A. § 9601 et seq.);

(4) the purchaser has entered into or is the subject of one or more contracts, agreements or orders with the intended purpose of performing investigation or remediation of contamination at the property; or

(5) the purchaser has provided indemnification or release of environmental liability to any other party regarding contamination at the property.

(c) A CELR does not relieve the holder of requirements or duties of an applicable environmental use control agreement or risk management plan.

Sec. 5. The purchaser shall submit payment to the department of a fee with the CELR application. The fee for the CELR shall be determined by the department by rules and regulations, but shall not exceed \$2,000 and shall be based on the size and complexity of the site and property as determined by the department. If a CELR is not issued by the department, a refund shall be issued to the purchaser less the amount expended by the department to review and process the application.

Sec. 6. (a) A person may submit a request to the department for approval to modify a CELR. The department shall approve or deny the request within 30 business days after the department's receipt of the request. If the department denies the request, justification shall be provided with a written explanation of the denial. A denial by the department may include as a justification for denial that the person has not provided the necessary documentation to justify the modification as determined by the department.

(b) A CELR is not transferable.

(c) The department shall not acquire any liability by virtue of this act.

Sec. 7. (a) If the department determines that fraudulent information was provided by the purchaser to the department for the purpose of obtaining a CELR, the secretary may take such actions as necessary to protect human health or the environment and may

take actions including, but not limited to:

(1) Issuing an order directing the purchaser to take any emergency action necessary to protect human health and the environment;

(2) issuing an order revoking the CELR;

(3) issuing an order that will require the purchaser to implement a cleanup of the site to a standard that will allow for unrestricted use; or

(4) assessing an administrative penalty of up to \$500 per day starting from the date of the application to the date the department determined false information was provided by the purchaser.

(b) Failure by a CELR recipient to grant reasonable access as required by this act or failure to otherwise comply with this act shall result in revocation of the CELR by the department.

(c) If an owner who has received a CELR exacerbates the contamination or interferes with a department-approved remedy on the property, the department shall revoke the CELR.

(d) If an owner who has received a CELR acquires liability for the contamination through contract, law or other mechanism, the CELR shall be null and void.

Sec. 8. (a) There is established in the state treasury the contaminated property redevelopment fund, which shall be administered by the secretary. Moneys collected by the secretary from the following sources shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, and deposited in the state treasury to the credit of the fund:

(1) Fees for CELR applications;

(2) the federal brownfields program;

(3) gifts, grants, reimbursements or appropriations from any source intended to be used for purposes of the fund;

(4) interest attributable to the investment of moneys in the fund;

(5) penalties collected pursuant to this act; and

(6) repayment of any brownfields loan, including interest and fees.

(b) Expenditures from the contaminated property redevelopment fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee for the following purposes:

(1) Review and approval of CELR applications;

(2) oversight and modifications of completed CELRs;

(3) development, operation and maintenance of the CELR tracking system;

(4) loans to municipalities for assessment and cleanup actions at brownfields redevelopment projects;

(5) grants to municipalities for assessment and cleanup actions at brownfields redevelopment projects; and

(6) administration and enforcement of the provisions of this act.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the contaminated property redevelopment fund interest earnings based on:

(1) The average daily balance of moneys in the contaminated property redevelopment fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding

month.

Sec. 9. The secretary may adopt rules and regulations necessary to implement the provisions of this act.

Sec. 10. Any person adversely affected by any order or decision of the secretary under this act may, within 15 days of service of the order or decision, request a hearing in writing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking lines 2 and 3; in line 4, by striking all before the period and inserting "economic development of environmentally contaminated property; relating to liability for cleanup costs; enacting the contaminated property redevelopment act";

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

SHARON SCHWARTZ

SUE BOLDRÁ

JOHN WILSON

Conferees on part of House

LARRY POWELL

DAN KERSCHEN

MARCI FRANCISCO

Conferees on part of Senate

Senator Powell moved the Senate adopt the Conference Committee Report on **H Sub SB 227**.

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

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

Nays: Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 323** submits the following report:

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

On page 1, in line 17, by striking "two hours" and inserting "one hour";

By striking pages 2 through 10;

On page 11, by striking lines 1 through 27 and inserting:

"New Sec. 2. (a) There is hereby established a language assessment program to be coordinated by the Kansas commission for the deaf and hard of hearing. The purpose of the program is to assess, monitor and track the language developmental milestones of children who are deaf or hard of hearing from birth through the age of eight. The

recognized languages used in the education of children who are deaf and hard of hearing are English and American sign language. The scope of the program includes children who may use one or more communication modes in American sign language, English literacy and, if applicable, spoken English and visual supplements.

(b) On and after July 1, 2018, an annual language assessment shall be given to each child who is deaf or hard of hearing and who is less than nine years of age. Language assessments shall be provided either through early intervention services administered by the Kansas department of health and environment, or if the child is three years of age or older, through the school district in which the child is enrolled. Such language assessments shall be provided in accordance with the provisions of this section and any recommendations adopted pursuant to this section.

(c) There is hereby established within KCDHH an advisory committee on the language assessment program. The advisory committee shall consist of 16 members as follows:

(1) Nine members of the advisory committee shall be appointed by the governor as follows:

(A) One member shall be a credentialed teacher of the deaf who uses both ASL and English during instruction;

(B) one member shall be a credentialed teacher of the deaf who uses spoken English with or without visual supplements during instruction;

(C) one member shall be a credentialed teacher of the deaf who has expertise in curriculum development and instruction of ASL and English;

(D) one member shall be a credentialed teacher of the deaf who has expertise in assessing language development in both ASL and English;

(E) one member shall be a speech language pathologist who has experience working with children from birth through the age of eight;

(F) one member shall be a professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and use ASL and English;

(G) one member shall be a parent of a child who is deaf or hard of hearing and who uses both ASL and English;

(H) one member shall be a parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements; and

(I) one member who is knowledgeable about teaching and using both ASL and English in the education of children who are deaf and hard of hearing; and

(2) seven members of the advisory committee shall be ex officio members as follows:

(A) One member shall be the executive director of KCDHH;

(B) one member shall be the coordinator of the sound start program, or such coordinator's designee;

(C) one member shall be the KCDHH commission member representing the state school for the deaf, or such commission member's designee;

(D) one member shall be the KCDHH commission member representing the department of health and environment, or such commission member's designee;

(E) one member shall be the KCDHH commission member representing the state board of education, or such commission member's designee;

(F) one member shall be the coordinator of the early intervention program administered by the department of health and environment, or such coordinator's designee; and

(G) one member shall be the coordinator of the early education program administered by the department of education, or such coordinator's designee.

(d) The executive director of KCDHH shall call an organizational meeting of the advisory committee on or before August 1, 2016. At such organizational meeting, the members shall elect a chairperson and vice-chairperson from the membership of the advisory committee. The advisory committee may meet at any time and at any place within the state on the call of the chairperson. A quorum of the advisory committee shall be nine members. All actions of the advisory committee shall be by motion adopted by a majority of those members present when there is a quorum. Any vacancy on the committee shall be filled in accordance with subsection (c).

(e) On or before January 31, 2018, the advisory committee shall develop specific action plans and make recommendations necessary to fully implement the language assessment program. In carrying out its charge under this section, the committee shall:

(1) Collaborate with the coordinating council on early childhood developmental services and the Kansas state special education advisory council;

(2) solicit input from professionals trained in the language development and education of children who are deaf or hard of hearing on the selection of specific language developmental milestones;

(3) review, recommend and monitor the use of existing and available language assessments for children who are deaf or hard of hearing;

(4) identify and recommend qualifications of language professionals with knowledge of the use of evidence-based, best practices in English and American sign language who can be available to advocate at IFSP or IEP team meetings;

(5) identify qualifications of language assessment evaluators with knowledge on the use of evidence-based, best practices with children who are deaf or hard of hearing and the resources for locating such evaluators; and

(6) identify procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used and progress of the child to the parent or legal guardian of such child, teachers and other professionals involved in the early intervention and education of such child.

(f) The specific action plans and recommendations developed by the advisory committee shall include, but are not limited to, the following:

(1) Language assessments that include data collection and timely tracking of the child's development so as to provide information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing;

(2) language assessments conducted in accordance with standardized norms and timelines in order to monitor and track language developmental milestones in receptive, expressive, social and pragmatic language acquisition and developmental stages to show progress in American sign language literacy, English literacy, or both, for all children who are deaf or hard of hearing from birth through the age of eight;

(3) language assessments delivered in the child's mode of communication and which have been validated for the specific purposes for which each assessment is used, and appropriately normed;

(4) language assessments administered by individuals who are proficient in ASL for ASL assessments and English for English assessments;

(5) use of assessment results, in addition to the assessment required by federal law, for guidance on the language developmental discussions by IFSP and IEP teams when assessing the child's progress in language development;

(6) reporting of assessment results to the parents or legal guardian of the child and the applicable agency;

(7) reporting of assessment results on an aggregated basis to the committees on education of the house of representatives and the senate; and

(8) reporting of assessment results to the members of the child's IFSP or IEP team, which may be used, in addition to the assessment required by federal law, by the child's IFSP or IEP team, as applicable, to track the child's progress, and to establish or modify the IFSP or IEP.

(g) The state department of education, the department of health and environment and the state school for the deaf shall enter into interagency agreements with KCDHH to share statewide aggregate data.

(h) On or before January 31, 2019, and each January 31 thereafter, KCDHH shall publish a report that is specific to language and literacy developmental milestones of children who are deaf or hard of hearing for each age from birth through the age of eight, including those who are deaf or hard of hearing and have other disabilities, relative to such children's peers who are not deaf or hard of hearing. Such report shall be based on existing data reported in compliance with the federally required state performance plan on pupils with disabilities. KCDHH shall publish the report on its website.

(i) The advisory committee shall cease to exist from and after July 1, 2018.

(j) As used in this section:

(1) "ASL" means American sign language.

(2) "English" means English literacy, spoken English, signing exact English and morphemic system of signs, CASE, cued speech and any other visual supplements.

(3) "IEP" means individualized education program.

(4) "IFSP" means individualized family service plan.

(5) "KCDHH" means the Kansas commission for the deaf and hard of hearing.

(6) "Language" means a complex and dynamic system of conventional symbols that is used in various modes for thought and communication.

(7) "Literacy" includes the developmental stages of literacy, including pre-emergent, emergent and novice levels, as necessary beginning stages to master a language.

Sec. 3. K.S.A. 2015 Supp. 75-2319 is hereby amended to read as follows: 75-2319.

(a) There is hereby established in the state treasury the school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) ~~Subject to the provisions of subsection (f),~~ In each school year, each school district which is obligated to make payments from its capital improvements fund shall be entitled to receive payment from the school district capital improvements fund in an amount determined by the state board of education as provided in this subsection.

(1) For general obligation bonds approved for issuance at an election held prior to July 1, 2015, the state board of education shall:

(A) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this subsection (b)(1);

(B) determine the median AVPP of all school districts;

(C) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(D) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 2015 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

(E) determine the amount of payments that a school district is obligated to make from its bond and interest fund attributable to general obligation bonds approved for issuance at an election held prior to July 1, 2015; and

(F) multiply the amount determined under subsection (b)(1)(E) by the applicable state aid percentage factor.

(2) For general obligation bonds approved for issuance at an election held on or after July 1, 2015, ~~but prior to July 1, 2017~~, the state board of education shall:

(A) Determine the amount of the AVPP of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this subsection (b)(2);

(B) prepare a schedule of dollar amounts using the amount of the AVPP of the school district with the lowest AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts;

(C) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the lowest AVPP shown on the schedule and decreasing the state aid computation percentage assigned to the amount of the lowest AVPP by one percentage point for each \$1,000 interval above the amount of the lowest AVPP. Except as provided by K.S.A. 2015 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid computation percentage is 75%;

(D) determine the amount of payments that a school district is obligated to make from its bond and interest fund attributable to general obligation bonds approved for

issuance at an election held on or after July 1, 2015, ~~but prior to July 1, 2017~~; and

(E) multiply the amount determined under subsection (b)(2)(D) by the applicable state aid percentage factor.

(3) For general obligation bonds approved for issuance at an election held on or before June 30, 2016, the sum of the amount determined under subsection (b)(1)(F) and the amount determined under subsection (b)(2)(E) is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(4) For general obligation bonds approved for issuance at an election held on or after July 1, 2016, the amount determined under subsection (b)(2)(E) is the amount of payment the school district shall receive from the school district capital improvements fund in the school year, except the total amount of payments school districts receive from the school district capital improvements fund in the school year for such bonds shall not exceed the six-year average amount of capital improvement state aid as determined by the state board of education.

(A) The state board of education shall determine the six-year average amount of capital improvement state aid by calculating the average of the total amount of moneys expended per year from the school district capital improvements fund in the immediately preceding six fiscal years, not to include the current fiscal year.

(B) (i) Subject to clause (ii), the state board of education shall prioritize the allocations to school districts from the school district capital improvements fund in accordance with the priorities set forth as follows in order of highest priority to lowest priority:

(a) Safety of the current facility and disability access to such facility as demonstrated by a state fire marshal report, an inspection under the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar evaluation;

(b) enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;

(c) impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and

(d) energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis or other similar evaluation.

(ii) In allocating capital improvement state aid, the state board shall give higher priority to those school districts with a lower AVPP compared to the other school districts that are to receive capital improvement state aid under this section.

(C) On and after July 1, 2016, the state board of education shall approve the amount of state aid payments a school district shall receive from the school district capital improvements fund pursuant to subsection (b)(5) prior to an election to approve the issuance of general obligation bonds.

(5) The sum of the amounts determined under subsection (b)(3) and the amount determined or allocated to the district by the state board of education pursuant to subsection (b)(4), is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(c) The state board of education shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b),

and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital improvements fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, shall be considered to be revenue transfers from the state general fund.

(d) Payments from the school district capital improvements fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to contractual bond obligations. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the bond and interest fund of the school district to be used for the purposes of such fund.

(e) The provisions of this section apply only to contractual obligations incurred by school districts pursuant to general obligation bonds issued upon approval of a majority of the qualified electors of the school district voting at an election upon the question of the issuance of such bonds.

(f) On or before the first day of the legislative session in 2017, and each year thereafter, the state board of education shall prepare and submit a report to the legislature that includes information on school district elections held on or after July 1, 2016, to approve the issuance of general obligation bonds and the amount of payments school districts were approved to receive from the school district capital improvements fund pursuant to subsection (b)(4)(C).

Sec. 4. K.S.A. 2015 Supp. 75-2319 is hereby repealed.;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 through 5; in line 6 by striking all before the period and inserting "education; relating to capital improvement state aid; creating a language assessment program for children who are deaf or hard of hearing; creating the Jason Flatt act; requiring suicide prevention training for school district personnel; amending K.S.A. 2015 Supp. 75-2319 and repealing the existing section";

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

RONALD HIGHLAND

JERRY LUNN

VALDENIA WINN

Conferees on part of House

STEVE ABRAMS

TOM ARPKE

ANTHONY HENSLEY

Conferees on part of Senate

Senator Abrams moved the Senate adopt the Conference Committee Report on **Sub SB 323**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

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

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 337** 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 as House Substitute for Senate Bill No. 337, on page 1, following line 5, by inserting:

"New Section 1. To further implement the provisions of the groundwater management district act, if the secretary of agriculture or the chief engineer of the division of water resources of the Kansas department of agriculture propose rules and regulations that may change an adopted local groundwater management program or impact water use in a groundwater management district, the secretary or chief engineer shall notify the groundwater management district board of directors of such requested management program change or proposed rules and regulations and provide a copy of such requested management program change or proposed rules and regulations to the board. Upon such notice, the board of directors shall prepare a response of intended board actions. The board of directors shall follow the provisions of K.S.A. 82a-1029, and amendments thereto, for revising active groundwater management programs.

New Sec. 2. (a) The division of water resources of the Kansas department of agriculture shall post all complete applications and all orders issued by the division pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, on its official website.

(b) The division, in conjunction with the groundwater management district within which such water right is situated, shall notify all water right owners with a point of diversion within half a mile, or further if deemed necessary by a rule and regulation of the chief engineer, of a water right pending request or application pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, except for change applications requesting a point of diversion move 300 feet or less from the currently authorized location.

Sec. 3. K.S.A. 2015 Supp. 74-506d is hereby amended to read as follows: 74-506d. The secretary of agriculture is hereby authorized to employ a chief engineer of the division of water resources and such expert assistants, clerical and other help as may be necessary to properly carry out the provisions of this act, and to fix their compensation; ~~all of whom.~~ The chief engineer shall be under the classified service of the Kansas civil service act, but any vacant position of such expert assistants, clerical and other help necessary to carry out the provisions of this act may be converted by the secretary of agriculture to an unclassified position.

Sec. 4. K.S.A. 2015 Supp. 75-2935 is hereby amended to read as follows: 75-2935. The civil service of the state of Kansas is hereby divided into the unclassified and the

classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

- (a) Chosen by election or appointment to fill an elective office;
- (b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;
- (c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;
- (d) all employees in the office of the governor;
- (e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;
- (f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;
- (g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;
- (h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;
- (i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;
- (j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the classified

or unclassified service as provided in K.S.A. 75-711, and amendments thereto;

- (k) all employees of courts;
- (l) client, patient and inmate help in any state facility or institution;
- (m) all attorneys for boards, commissions and departments;
- (n) the secretary and assistant secretary of the Kansas state historical society;
- (o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the Kansas department for aging and disability services;
- (p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;
- (q) student employees enrolled in public institutions of higher learning;
- (r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;
- (s) all officers and employees in the office of the secretary of state;
- (t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary for aging and disability services, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the secretary of revenue, the secretary for children and families, the secretary of transportation, the secretary of wildlife, parks and tourism and the commissioner of juvenile justice;
- (u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;
- (v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;
- (w) one public information officer and one chief attorney for the following: The department of administration, the Kansas department for aging and disability services, the department of agriculture, the department of commerce, the department of corrections, the department of health and environment, the department of labor, the department of revenue, the Kansas department for children and families, the department of transportation, the Kansas department of wildlife, parks and tourism and the commissioner of juvenile justice;
- (x) if designated by the appointing authority, persons in newly hired positions, including any employee who is rehired into such position and any current state employee who voluntarily transfers into, or is voluntarily promoted or demoted into such position, on and after July 1, 2015, in any state agency;
- (y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;
- (z) specifically designated by law as being in the unclassified service;
- (aa) any position that is classified as a position in the information resource manager job class series, that is the chief position responsible for all information resources management for a state agency, and that becomes vacant on or after the effective date of this act. Nothing in this section shall affect the classified status of any employee in the

classified service who is employed on the date immediately preceding the effective date of this act in any position that is a classified position in the information resource manager job class series and the unclassified status as prescribed by this subsection shall apply only to a person appointed to any such position on or after the effective date of this act that is the chief position responsible for all information resources management for a state agency;

(bb) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 2015 Supp. 76-715a, and amendments thereto; and

(cc) notwithstanding the provisions of K.S.A. 22-4524, 32-802, 44-510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-2878, 65-6103, 73-1210a, 73-1234, ~~74-506d~~, 74-515b, 74-561, 74-569, 74-631, 74-1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-2906a, 74-5014, 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501, 74-8704, 74-8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-3148, 75-3702c, 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157, 75-5309, 75-5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-5910, 75-7028, 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-12a05, 76-12a08, 76-12a16, 76-3202 and 82a-1205 and K.S.A. 2015 Supp. 39-1911, and amendments thereto, any vacant position within the classified service may be converted by the appointing authority to an unclassified position.

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and reemployment which may be different from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

(5) On and after the effective date of this act, any state agency that has positions in the classified service within the Kansas civil service act to satisfy any requirement of maintaining personnel standards on a merit basis pursuant to federal law or the rules and regulations promulgated thereunder by the federal government or any agency thereof, shall adopt a binding statement of agency policy pursuant to K.S.A. 77-415, and amendments thereto, to satisfy such requirements if the appointing authority has made any such position unclassified.";

Also on page 1, in line 30, after "telemetry" by inserting "for the purpose of documentation";

On page 2, in line 3, after "Supp." by inserting "74-506d, 75-2935 and"; also in line 3, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "relating to the division of water resources; chief engineer;"; also in line 2, after "Supp." by inserting "74-506d, 75-2935 and"; in line 3, by striking "section" and inserting "sections";

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

SHARON SCHWARTZ

SUE BOLDRA

JOHN WILSOL

Conferees on part of House

LARRY POWELL

DAN KERSCHEN

MARCI FRANCISCO

Conferees on part of Senate

Senator Powell moved the Senate adopt the Conference Committee Report on **H Sub SB 337**.

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

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

Nays: Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 388** 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 5 through 34;

By striking all on page 2, and inserting:

"Section 1. K.S.A. 2015 Supp. 32-1047 is hereby amended to read as follows: 32-1047. (a) ~~Subject to the provisions in subsection (b);~~ The department is hereby empowered and directed to seize and possess any wildlife which is taken, possessed, sold or transported unlawfully, and any steel trap, snare or other device or equipment used in taking or transporting wildlife unlawfully or during closed season. The department ~~is hereby authorized to shall~~:

(1) Offer the seized item, if the item is unlawfully taken wildlife parts, to the landowner or tenant on whose property the wildlife parts were unlawfully taken, provided:

(A) The wildlife parts are no longer needed as evidence;

(B) the location of the violation can be positively ascertained;
 (C) there is no dispute between landowners or tenants as to who may receive the wildlife parts; and

(D) the landowner or tenant did not commit the violation for which the wildlife parts were seized; and

~~(E) the wildlife parts are transferred within two years of adjudication of the violation;~~

(2) The provisions of subsection (a)(1) are construed to be and shall be applied retroactively as they relate to antlers, antler sheds and horns seized by the department after January 1, 2005, and in the care, custody, control, management or possession of the department as of January 1, 2015, when the landowner or tenant whose property on which the antlers, antler sheds or horns were unlawfully taken, requests such wildlife parts to be returned to such landowner or tenant. This subsection shall apply to antlers, antler sheds and horns in the possession of the department or in the possession of some other entity pursuant to an agreement with the department.

(b) If the seized item is not unlawfully taken wildlife or is unlawfully taken wildlife that is not disposed of as described in subsection (a), the department is hereby authorized to:

~~(2)~~(1) Sell the seized item, including wildlife parts with a dollar value, and remit the proceeds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. If the seized item is a firearm that has been forfeited pursuant to K.S.A. 22-2512, and amendments thereto, then it may be sold unless: ~~(A)~~(A) The firearm is significantly altered in any manner; or ~~(B)~~ the sale and public possession of such firearm is otherwise prohibited by law. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the wildlife fee fund;

~~(2)~~(2) retain the seized item for educational, scientific or department operational purposes; or

~~(3)~~(3) destroy the seized item.

~~(b) The department shall give priority to disposing of unlawfully taken wildlife items in accordance with the process provided for in subsection (a)(1):~~

Sec. 2. K.S.A. 2015 Supp. 32-1047 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the period and inserting "wildlife; relating to seizure of wildlife; disposal; amending K.S.A. 2015 Supp. 32-1047 and repealing the existing section";

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

SHARON SCHWARTZ

SUE BOLDRÁ

JOHN WILSON

Conferees on part of House

STEVE ABRAMS

TOM ARPKE

ANTHONY HENSLEY

Conferees on part of Senate

The motion of Senator Abrams to adopt the conference committee report on **SB 388** failed.

On roll call, the vote was: Yeas 15; Nays 25; Present and Passing 0; Absent or Not Voting 0.

Yeas: Arpke, Hensley, King, LaTurner, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Tyson, Wilborn.

Nays: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Holland, Holmes, Kelly, Kerschen, Knox, Longbine, Love, Lynn, McGinn, Pettey, V. Schmidt, Smith, Wagle, Wolf.

The Conference Committee Report was not adopted

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2056** 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 6, in line 17, by striking all before "that" and inserting "organized under the laws of the state of Kansas";

On page 9, following line 10, by inserting:

"(5) A person operating as a sufficient surety or bail bondsman in the state immediately prior to the effective date of this act shall be deemed to be compensated surety under this act and shall be exempt from the continuing education requirements for a conditional authorization pursuant to this section until July 1, 2017.";

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

GREG SMITH
FORREST KNOX
PAT PETTEY

Conferees on part of Senate

RAMON GONZALEZ
BLAIN FINCH
DENNIS HIGHBERGER

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **S Sub HB 2056**.

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

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

Nays: Pilcher-Cook.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2163** submits the following report:

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

On page 1, by striking all in lines 5 through 17 and inserting:

"Section 1. The board of county commissioners of any county may order an audit of any fire district located within the county created under article 15 of chapter 80 or article 36 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto. The township or townships which comprise the fire district shall be responsible for payment of the cost of the audit.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the period and inserting "audits of certain fire districts";

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

DENNIS PYLE

STEVE FITZGERALD

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

STEVE HUEBERT

TOM PHILLIPS

JOHN ALCALA

Conferees on part of House

Senator Fitzgerald moved the Senate adopt the Conference Committee Report on **HB 2163**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

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

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2460** submits the following report:

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

On page 1, by striking all in lines 6 through 34;

By striking all on page 2, and inserting:

"New Section 1. (a) Within the limits of available resources, the attorney general may assist victims of identity theft, identity fraud and related crimes and violations in

obtaining refunds in relation to fraudulent or unauthorized charges or debits, canceling fraudulent accounts, correcting false information in consumer reports caused by identity theft or identity fraud, correcting false information in personnel files and court records, obtaining security freezes, completing identity theft affidavits, filing complaints and related matters.

(b) This section shall be part of and supplemental to the Kansas consumer protection act.

New Sec. 2. (a) As used in this section:

(1) "Holder of personal information" or "holder" means a person who, in the ordinary course of business, collects, maintains or possesses, or causes to be collected, maintained or possessed, the personal information of any other person.

(2) "Person" means any individual, partnership, corporation, trust, estate, cooperative, association, government, governmental subdivision or agency or other entity.

(3) "Personal information" means personal information as defined by K.S.A. 50-7a01(g), and amendments thereto, and any other information which identifies an individual for which an information security obligation is imposed by federal or state statute or regulation.

(4) "Record" has the meaning provided by K.S.A. 84-1-201, and amendments thereto.

(b) A holder of personal information shall:

(1) Implement and maintain reasonable procedures and practices appropriate to the nature of the information, and exercise reasonable care to protect the personal information from unauthorized access, use, modification or disclosure. If federal or state law or regulation governs the procedures and practices of the holder of personal information for such protection of personal information, then compliance with such federal or state law or regulation shall be deemed compliance with this paragraph and failure to comply with such federal or state law or regulation shall be prima facie evidence of a violation of this paragraph; and

(2) unless otherwise required by federal law or regulation, take reasonable steps to destroy or arrange for the destruction of any records within such holder's custody or control containing any person's personal information when such holder no longer intends to maintain or possess such records. Such destruction shall be by shredding, erasing or otherwise modifying the personal identifying information in the records to make it unreadable or undecipherable through any means.

(c) A holder of personal information shall have an affirmative defense to a violation of subsection (b)(2) if such holder proves by clear and convincing evidence that:

(1) The violation resulted from a failure of the method of destruction of records to make personal information contained in such records unreadable or undecipherable through any means, and such failure could not reasonably have been foreseen despite the holder's exercise of reasonable care in selecting and employing a method of destruction; or

(2) the holder of personal information had in effect at the time of the violation a bona fide written or electronic records management policy, including practices and procedures reasonably designed, maintained, and expected to prevent a violation of subsection (b)(2), and that the records involved in the violation of subsection (b)(2) were destroyed or disposed of in violation of such policy. No affirmative defense under

this paragraph shall be available unless such holder proves:

(A) The employees or other persons involved in the violation received training in the holder's written or electronic records management policy;

(B) the violation resulted from a good faith error; and

(C) no reasonable likelihood exists that the violation may cause, enable or contribute to identity theft or identity fraud as defined by K.S.A. 2015 Supp. 21-6107, and amendments thereto, or to a violation of an information security obligation imposed by federal or state statute or regulation.

(d) Each violation of this section shall be an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto. Each record that is not destroyed in compliance with subsection (b)(2) shall constitute a separate unconscionable act within the meaning of K.S.A. 50-627, and amendments thereto.

(e) Notwithstanding any other provision of law to the contrary, the exclusive authority to bring an action for any violation of this section shall be with the attorney general. Nothing in this section shall be construed to create or permit a private cause of action for any violation of this section.

(f) Nothing in this section relieves a holder of personal information from any duty to comply with other requirements of state and federal law regarding the protection of such information.

(g) This section shall be part of and supplemental to the Kansas consumer protection act.

Sec. 3. K.S.A. 2015 Supp. 50-6,139 is hereby amended to read as follows: 50-6,139. (a) The conduct prohibited by K.S.A. 2015 Supp. 21-6107, and amendments thereto, constitutes an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto, and any person who engages in such conduct shall be subject to the remedies and penalties provided by the Kansas consumer protection act.

(b) For the purposes of the remedies and penalties provided by the Kansas consumer protection act:

(1) The person committing the conduct prohibited by K.S.A. 2015 Supp. 21-6107, and amendments thereto, shall be deemed the supplier, and the person who is the victim of such conduct shall be deemed the consumer; and

(2) proof of a consumer transaction shall not be required.

(c) This section shall be part of and supplemental to the Kansas consumer protection act ~~and~~.

~~(d) The provisions of this section and sections 1 and 2, and amendments thereto, shall be known and may be cited as the Wayne Owen law act.~~

New Sec. 4. (a) Violation of a consumer protection order is engaging in a door-to-door sale while prohibited from door-to-door sales.

(b) Violation of a consumer protection order is a severity level 9, person felony.

(c) As used in this section:

(1) "Door-to-door sale" has the meaning provided by K.S.A. 50-640, and amendments thereto.

(2) "Engaging in" means participating, directly or indirectly, in the prohibited conduct or causing, directing, employing, enabling or assisting others to participate in such conduct.

(3) "Prohibited from door-to-door sales" means subject to any temporary or permanent order or judgment of a court entered under authority of the Kansas consumer

protection act, K.S.A. 50-623 et seq., and amendments thereto, or any act that is part of or supplemental to the consumer protection act, and that restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof. For purposes of this section, an order or judgment restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof if such order or judgment:

(A) Expressly prohibits the person from engaging in door-to-door sales;

(B) prohibits conduct that includes, but is not limited to, engaging in door-to-door sales, such as prohibiting the person from engaging in consumer transactions as defined by K.S.A. 50-624, and amendments thereto; or

(C) prohibits engaging in only a particular type of door-to-door sale, such as the door-to-door sale of roofing-related services within the meaning of K.S.A. 2015 Supp. 50-6,122, and amendments thereto, or prohibits engaging in door-to-door sales only in a particular place. In such case, criminal liability under this section shall arise only if the person engaged in the particular type of door-to-door sale that is restrained, enjoined or otherwise prohibited or engaged in a door-to-door sale in the particular place where such sale is restrained, enjoined or otherwise prohibited.

(d) A person shall be subject to criminal liability under this section only if the state proves beyond a reasonable doubt that such person had actual or constructive notice of the temporary or permanent order or judgment described in subsection (b)(3).

(1) A person has actual notice of the existence of a temporary or permanent order or judgment if:

(A) Such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A. 60-307, and amendments thereto, at any time prior to the violation of this section, regardless of when such order or judgment was issued; or

(B) such person otherwise had actual knowledge of such order or judgment.

(2) A person has constructive notice of the existence of a temporary or permanent order or judgment if, on or after July 1, 2016:

(A) The petition or subpoena that resulted in issuance of such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A. 60-307, and amendments thereto;

(B) the petition or subpoena contained, or was accompanied by, notice that failure to answer the petition or comply with the subpoena could result in such person being prohibited from door-to-door sales should a judgment be issued, and that a violation of the judgment could constitute an additional crime;

(C) actual service of such order or judgment on such person was attempted, but was refused or left unclaimed; and

(D) such order or judgment is posted conspicuously on an official and publicly available website of the office of the attorney general, whether or not such order or judgment was actually served on such person. Compliance with this paragraph shall create a rebuttable presumption that such person had knowledge of the existence of such order or judgment, but such presumption may be rebutted by showing, through a preponderance of evidence, that such person neither knew nor should have known of the existence of such order or judgment.

(e) The criminal liability imposed by this section shall not relieve any person of civil liability for violating a consumer protection order, and any criminal penalties authorized by law may be imposed in addition to any civil sanctions or liability authorized by law.

(f) The attorney general, or county attorney or district attorney, or both, may institute criminal action to prosecute this offense.

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

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

New Sec. 5. The attorney general may post conspicuously on an official and publicly available website of the office of the attorney general any judgment or order that restrains, enjoins or otherwise prohibits a person from engaging in door-to-door sales, as defined in section 4(c), and amendments thereto.

Sec. 6. K.S.A. 2015 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations involving controlled substances, as described in K.S.A. 2015 Supp. 21-5701 through 21-5717, and amendments thereto;
- (c) theft, as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto;
- (d) criminal discharge of a firearm, as defined in ~~subsections (a)(1) and (a)(2) of~~ K.S.A. 2015 Supp. 21-6308(a)(1) and (a)(2), and amendments thereto;
- (e) gambling, as defined in K.S.A. 2015 Supp. 21-6404, and amendments thereto, and commercial gambling, as defined in ~~subsection (a)(1) of~~ K.S.A. 2015 Supp. 21-6406(a)(1), and amendments thereto;
- (f) counterfeiting, as defined in K.S.A. 2015 Supp. 21-5825, and amendments thereto;
- (g) unlawful possession or use of a scanning device or reencoder, as described in K.S.A. 2015 Supp. 21-6108, and amendments thereto;
- (h) medicaid fraud, as described in K.S.A. 2015 Supp. 21-5925 through 21-5934, and amendments thereto;
- (i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- (j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- (k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (l) terrorism, as defined in K.S.A. 2015 Supp. 21-5421, and amendments thereto, illegal use of weapons of mass destruction, as defined in K.S.A. 2015 Supp. 21-5422, and amendments thereto, and furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2015 Supp. 21-5423, and amendments thereto;
- (m) unlawful conduct of dog fighting and unlawful possession of dog fighting

paraphernalia, as defined in ~~subsections (a) and (b)~~ of K.S.A. 2015 Supp. 21-6414(a) and (b), and amendments thereto;

(n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in ~~subsections (a) and (b)~~ of K.S.A. 2015 Supp. 21-6417(a) and (b), and amendments thereto;

(o) selling sexual relations, as defined in K.S.A. 2015 Supp. 21-6419, and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 2015 Supp. 21-6420, and amendments thereto, and buying sexual relations, as defined in K.S.A. 2015 Supp. 21-6421, and amendments thereto;

(p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426, and amendments thereto;

(q) violations of the banking code, as described in K.S.A. 9-2012, and amendments thereto;

(r) mistreatment of a dependent adult, as defined in K.S.A. 2015 Supp. 21-5417, and amendments thereto;

(s) giving a worthless check, as defined in K.S.A. 2015 Supp. 21-5821, and amendments thereto;

(t) forgery, as defined in K.S.A. 2015 Supp. 21-5823, and amendments thereto;

(u) making false information, as defined in K.S.A. 2015 Supp. 21-5824, and amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 2015 Supp. 21-5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 2015 Supp. 21-5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in ~~subsections (a) and (b)~~ of K.S.A. 2015 Supp. 21-6107(a) and (b), and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 2015 Supp. 21-5509, and amendments thereto;

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8-1568, and amendments thereto;

(aa) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto;

(bb) violations of the Kansas racketeer influenced and corrupt organization act, as described in K.S.A. 2015 Supp. 21-6329, and amendments thereto;

(cc) indecent solicitation of a child and aggravated indecent solicitation of a child, as defined in K.S.A. 2015 Supp. 21-5508, and amendments thereto; ~~and~~

(dd) sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-5510, and amendments thereto; and

(ee) violation of a consumer protection order as defined in section 4, and amendments thereto.

Sec. 7 K.S.A. 2015 Supp. 50-6,139, 50-7a03 and 60-4104 are hereby repealed.

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

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the semicolon and inserting "consumer protection; relating to identity theft and identity fraud; door-to-door sales"; also in line 2, by striking "22-4903" and inserting "50-6,139 and 60-4104"; in line 3 by striking "section" and inserting "sections";

also repealing K.S.A. 2015 Supp. 50-7a03";

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

GREG SMITH
FORREST KNOX
PAT PETTEY

Conferees on part of Senate

RAMON GONZALEZ
JAN PAULS

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2460**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

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

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2490** submits the following report:

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

On page 4, following line 10, by inserting:

"Sec. 5. K.S.A. 2015 Supp. 83-214 is hereby amended to read as follows: 83-214.

(a) The secretary may try and prove weights, measures, balances and other measuring devices on request for any person, corporation or institution, and when the same are found or made to conform to the state standards, and otherwise fulfill such reasonable requirements as the secretary may make, the secretary, or an authorized representative of the secretary, may seal the same with a seal which is kept for that purpose.

(b) (1) Except as otherwise provided by statute, the secretary, or the authorized representative of the secretary, may charge for services provided by the department and other necessary and incidental expenses or both incurred in conjunction with the testing and proving of weights, measures and other devices at a rate per hour or fraction thereof and other necessary and incidental expenses which are fixed by rules and regulations adopted by the secretary of agriculture, except that (1) the charges for services provided by the metrology lab shall not exceed \$50 per hour or fraction thereof, and (2) in the case of the head house scale program such charges shall not exceed \$100 per hour or fraction thereof. rates prescribed pursuant to this section. An in-state rate shall be charged to licensed service companies that have licensed technical representatives performing service work in Kansas. An additional fee for adjustment of any weight, measure or other device may be assessed. The rates charged by the secretary shall be as follows:

Category	In-State rate	In-State rate for quantities of 10 or more	In-State rate for quantities of 100 or more	Standard rate	Standard rate for quantities of 10 or more	Adjustment fee per piece
Large Mass ($\leq 1,250$ lbs through ≥ 100 lbs, 500 kg through $50 \geq$ kg)	\$16	\$8	\$6	\$20	\$10	\$5
Medium Mass (< 100 lbs through ≥ 20 lbs, < 50 kg through $10 \geq$ kg)	\$6	\$4	\$2	\$10	\$5	\$5
Small Mass (< 20 lbs through ≥ 0.001 lbs, < 10 kg through 1 mg)	\$6	\$4	\$2	\$10	\$5	\$5
Small Mass Set (≤ 10 lbs through ≥ 0.001 lbs, ≤ 5 kg through ≥ 20 mg)	\$35	\$35		\$45	\$45	\$5
Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg)/ASTM 2, 3, 4, 5	\$20	\$20		\$30	\$30	\$40
Precision Mass Echelon I (30 kg through 1 mg)/ASTM 1 or ASTM 0	\$40	\$40		\$60	\$60	
Extra Large Headhouse Weights (3,000 lbs through $> 1,250$ lbs)	\$40	\$40		\$50	\$50	\$5
Weight Carts (6,000 lbs through 2,000 lbs)	\$80	\$80		\$100	\$100	\$25
Weight Carts (8,000 lbs)	\$200	\$200		\$220	\$220	\$25
Large Volume (100 gal or less)	\$85	\$85		\$100	\$100	\$25
Large Volume (greater than 100 gal and less than or equal to 200 gal.)	\$185	\$185		\$200	\$200	\$25
Large Volume (greater than 200 gal and less than or equal to 500 gal.)	\$285	\$285		\$300	\$300	\$25
Large Volume (greater than 500 gal.)	\$485	\$485		\$500	\$500	\$25
Small Volume (5 gal.)	\$50	\$50		\$70	\$70	\$10
Gravimetric Volume (5 gal.)	\$180	\$180		\$200	\$200	
Thermometry (-35°C through 150°C)(Based on a per point calibration)	\$90	\$75		\$110	\$90	

(2) The secretary may charge the following additional fees for preparing items for shipment:

<u>Category</u>	<u>Rate</u>
<u>Large Mass (< 1,250 lbs through > 100 lbs, 500 kg through 50 > kg)</u>	<u>\$20</u>
<u>Medium Mass (< 100 lbs through > 20 lbs, < 50 kg through > 10 kg)</u>	<u>\$30</u>
<u>Small Mass (< 20 lbs through > 0.001 lbs, < 10 kg through > 1 mg)</u>	<u>\$20</u>
<u>Small Mass Set (< 10 lbs through > 0.001 lbs, < 5 kg through > 1 mg)</u>	<u>\$20</u>
<u>Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg)</u>	<u>\$10</u>
<u>Precision Mass Set (1,000 lbs through 0.001 lbs, 30 kg through 1 mg)</u>	<u>\$20</u>
<u>Extra Large Headhouse Weights (3,000 lbs through > 1,250 lbs)</u>	<u>\$40</u>
<u>Weight Carts (8,000 lbs through 2,000 lbs)</u>	<u>\$100</u>
<u>Large Volume (1,000 gal through 20 gal)</u>	<u>\$100</u>
<u>Large Volume LPG (1,000 gal through 20 gal)</u>	<u>\$100</u>
<u>Small Volume (5 gal)</u>	<u>\$20</u>
<u>Gravimetric Volume (5 gal)</u>	<u>\$20</u>
<u>Thermometry (-35°C through 150°C)(Based on a 2 point calibration)</u>	<u>\$20</u>

(3) For any service provided pursuant to this subsection that is not listed in the fee schedules in subsections (b)(1) and (b)(2), the secretary shall determine that fee to be charged.

(4) For any service provided pursuant to this subsection, the secretary may charge a minimum fee of \$50 per invoice. The secretary may charge for subsistence and transportation of personnel and equipment to such point and return. Such charges shall be set by rules and regulations adopted by the secretary of agriculture.

(5) The secretary may fix the manner in which any charges made pursuant to this subsection are collected.

(c) The secretary shall remit all moneys received under subsection (b) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund which is hereby created. All expenditures from the weights and measures fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.

(d) Except as provided in K.S.A. 83-301 through 83-311, and amendments thereto, nothing in article 2 of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, shall prohibit the owner of a weighing or measuring device or the owner's employee or agent from servicing or repairing such device. However, if such device is found out of tolerance and is rejected by the department of agriculture, the owner is responsible for repairing the device within the time specified on the rejection tag and notifying the department when the device is repaired and in operation. The owner shall pay a fee commensurate with the expense incurred by the secretary in performing the follow-up inspections or tests.

Sec. 6. K.S.A. 2015 Supp. 83-219 is hereby amended to read as follows: 83-219.

(a) It shall be unlawful for any person:

(1) To offer or expose for sale, or to sell ~~or otherwise dispose of~~ any weight, measure or weighing or measuring device that does not meet the tolerances and specifications required by chapter 83 of the Kansas Statutes Annotated, and

amendments thereto, or which has been rejected without first obtaining the written authorization of the secretary;

(2) to use ~~or possess~~ a weight, measure or weighing or measuring device ~~that is used for or intended to be used~~ for commercial purposes which does not meet the tolerance and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or that does not conform to the standard authorized by the secretary for determining the quantity of any commodity or article of merchandise, for the purpose of:

(A) Buying or selling any commodity or article of merchandise;

(B) computation of any charge for services rendered on the basis of weight or measure;

(C) determining weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;

(3) except as allowed in K.S.A. 83-225, and amendments thereto, to break or remove any tag, mark or seal placed on any weighing or measuring device by the secretary or a county or city inspector of weights and measures, without specific written authorization from the proper authority or to use a weighing or measuring device after the lapse of the authorized period following the placing of a rejection tag thereon by the secretary, unless further extension of time for any repair purposes is first obtained from the secretary;

(4) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service;

(5) to take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;

(6) to keep for the purpose of sale, or to offer or expose for sale, or to sell any commodity in a manner contrary to the law or contrary to any rule and regulation;

(7) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from a reasonable customer position;

(8) to violate any of the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, for which a specific penalty is not provided;

(9) to sell or offer for sale, or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;

(10) to dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;

(11) to expose for sale, offer for sale or sell any commodity in package form, without it being so wrapped, or the container so made, formed or filled, that it will not mislead the purchaser as to the quantity of the contents of the package;

(12) to expose for sale, offer for sale or sell any commodity in any container where the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary;

(13) to misrepresent the price of any commodity or service sold, offered, exposed

or advertised for sale by weight, measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive any person;

(14) to misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed or advertised for sale at retail;

(15) to compute or attempt to compute at the time of sale of an item, a value which is not a true extension of a price per unit which is then advertised, posted or quoted;

(16) to charge or attempt to charge, at the time of the sale of an item or commodity, a value which is more than the price which is advertised, posted or quoted;

(17) to alter a weight certificate, use or attempt to use any such certificate for any load or part of a load or for articles or things other than for which the certificate is given, or, after weighing and before the delivery of any articles or things so weighted, alter or diminish the quantity thereof;

(18) to hinder or obstruct in any way the secretary or any of the secretary's authorized agents in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(19) to fail to follow the standards and requirements established in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(20) to fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(21) to fail to keep or make available for examination or provide to the secretary all inspection reports, test reports and any other service reports or other information on any device owned or operated by the owner or any agent or employee of the owner and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder, and as required by the secretary;

(22) to fail to have any commercial weight, measure or weighing and measuring device tested as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(23) to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare and net weight as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder, or packages or containers which bear a false statement as to weights;

(24) to sell, use, remove, or otherwise dispose of, or fail to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary;

(25) to violate any order issued by the secretary pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto; and

(26) to prohibit a buyer or seller from observing the weighing or operation of any transaction to which such buyer or seller is a party.

(b) It shall be unlawful for any service company or technical representative to knowingly:

(1) Act as or represent such person's self to be a technical representative without having a valid license issued by the Kansas department of agriculture;

(2) certify a device as correct unless the device meets the tolerances and specifications as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(3) hinder or obstruct in any way the secretary in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(4) fail to follow the standards and requirements set forth in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(5) fail to complete the testing or placing-in-service report in its entirety and to report the accurate description of the parts replaced, adjusted, reconditioned or work performed;

(6) file a false or fraudulent service company or technical representative application or reports to the secretary;

(7) fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(8) fail to keep or make available for examination in an accessible and legible manner or provide to the secretary in a legible manner all inspection reports, test reports, and any other service or report work information on any device which the service company or an agent or employee performed work on and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder; or

(9) sell, offer or expose for sale a weighing or measuring device intended to be used commercially, which is not traceable to a national type evaluation program certificate of conformance.

(c) For the purpose of ~~paragraph subsection~~ (a)(4), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser.

(d) Violation of this section shall be deemed a deceptive act and practice as defined by K.S.A. 50-626, and amendments thereto. Violations of the provisions of K.S.A. 83-219, and amendments thereto, may be enforced by the secretary under the administrative provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or by the attorney general or a county or district attorney under the Kansas consumer protection act.

Sec. 7. K.S.A. 2015 Supp. 83-302 is hereby amended to read as follows: 83-302. (a) ~~(1)~~ Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a company in Kansas shall apply to the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50, ~~or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 and thereafter an annual license renewal application fee of \$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 for each place of business.~~

(2) Beginning with the 2017 license year, the secretary may, by order, set the license application fee, not to exceed the maximum fee stated herein:

- (A) Commencing July 1, 2017, the license application fee shall not exceed \$100.
- (B) Commencing July 1, 2019, the license application fee shall not exceed \$110.
- (C) Commencing July 1, 2021, the license application fee shall not exceed \$120.
- (D) Commencing July 1, 2023, and thereafter, the license application fee shall not exceed \$130.

(3) Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable. The license renewal fee shall be equal to the license application fee as provided in this section for each place of business.

(b) If any service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c)(1) Each technical representative shall be licensed annually by the secretary. Except as provided in paragraph (2), each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. ~~The Kansas department of agriculture shall be authorized to charge a fee to the attendees of the continuing education seminars sponsored by the agency. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar.~~ Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(2) Beginning on July 1, 2017, each technical representative who has had 10 years of continuous licensure with no administrative enforcement action adjudicated against such technical representative during such 10-year period shall be eligible to obtain a three-year license. The secretary shall implement, by order, the fee for such three-year license, which shall be an amount not to exceed \$300. Each technical representative holding a three-year license shall be required to complete continuing education as described in subsection (c)(1) at a frequency not to exceed once per three-year period. The secretary may promulgate rules and regulations to require any technical representative who has been adjudicated in violation of this act or any rules and regulations promulgated by the secretary, to seek renewal of a license on an annual basis and may establish criteria for reinstatement of eligibility for a three-year license.

(3) The department of agriculture is authorized to charge a fee to the attendees of

continuing education seminars sponsored by the department. The amount of such fee shall be no more than is necessary to cover the expenses incurred by providing the seminar.

(d) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the last 365 days preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.;

And by renumbering sections accordingly;

Also on page 4, in line 11, by striking "and" and inserting a comma; also in line 11, after "2-2117" by inserting ", 83-214, 83-219 and 83-302";

On page 1, in the title, in line 1, after "concerning" by inserting "the department of agriculture; relating to"; in line 2, after "containment;" by inserting "weights and measures; charging for certain services; unlawful acts; technical representatives;"; in line 3, by striking the first "and" and inserting a comma; also in line 3, after "2-2117" by inserting ", 83-214, 83-219 and 83-302";

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

LARRY POWELL

DAN KERSCHEN

MARCI FRANCISCO

Conferees on part of Senate

SHARON SCHWARTZ

SUE BOLDRA

JOHN WILSON

Conferees on part of House

Senator Powell moved the Senate adopt the Conference Committee Report on **HB 2490**.

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

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

Nays: Baumgardner, Pilcher-Cook.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

Madam President: The previous director of Weights and Measures, whom served as the National Chairman and received international recognition for his contribution to Weights and Measures, proposed this change over five years ago. This change, though long overdue, promotes increased efficiency and production in State government. I wholeheartedly support this change.—CARYN TYSON

ORIGINAL MOTION

Senator Bruce moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 516**.

President Wagle announced the time had arrived to consider the motion submitted in writing by Senator Tom Holland, citing Rule 11(b), to withdraw **SB 516** from the Committee on **Ethics and Elections** and be placed on the calendar under the heading of **General Orders**.

SB 516, AN ACT concerning campaign finance; prohibiting certain contributions by contractors with public entities.

On roll call, the vote was: Yeas 8; Nays 32; Present and Passing 0; Absent or Not Voting 0.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

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

The motion failed and **SB 516** remains in committee.

EXPLANATION OF VOTE

Madam President: I vote "No" on the motion to remove **SB 516** for the Ethics and Elections Committee. The maker of the motion claims this legislation would improve upon the "the lack scrutiny" over business' relationships with governing bodies. However, **SB 516** is simply an election-year smoke screen that is lacking in fairness. If one reads the legislation, it is pretty obvious that it restricts the freedom of speech of those in the private sector, but does nothing to reign in government funded lobbyists, unions, and other Democratic Party fundraisers. If the maker of the motion truly wishes to reduce "the special interests' undue influence over elected officials," why don't we start by eliminating taxpayer funded lobbying? The vast majority of Kansans believe that government is far too intrusive in their daily lives. The reason for this is that far too many entities use taxpayer funds to lobby for more funding.—JULIA LYNN

Senators Abrams, Melcher, Pilcher-Cook and Smith request the record to show they concur with the "Explanation of Vote" offered by Senator Lynn on **SB 516**.

On motion of Senator Bruce, the Senate recessed until 8:00 p.m..

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

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **S Sub HB 2056**.

The House adopts the Conference Committee report on **HB 2460**.

The House adopts the Conference Committee report on **HB 2490**.

The House adopts the Conference Committee report on **HB 2163**.

The House adopts the Conference Committee report on **SB 418**.

The House adopts the Conference Committee report on **H Sub SB 149**.

The House adopts the Conference Committee report on **SB 325**.

The House adopts the Conference Committee report on **H Sub SB 193**.

The House not adopts the Conference Committee report on **H Sub SB 128**, requests a conference and appoints Representatives Barker, Macheers and Carmichael as Third conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **H Sub SB 402**, and has appointed Representatives Hawkins, Dove and Ward as second conferees on the part of the House.

ORIGINAL MOTION

Senator Bruce moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **H Sub SB 402**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 402** submits the following report:

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

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

DANIEL HAWKINS

WILLIE DOVE

Conferees on part of House

MICHAEL O'DONNELL

JIM DENNING

LAURA KELLY

Conferees on part of Senate

On motion of Senator Bruce the Senate adopted the conference committee report on **H Sub SB 402**, and requested a new conference be appointed.

Under the authority of the President, the Vice President appointed Senators O'Donnell, Denning and Kelly as a second Conference Committee on the part of the Senate on **H Sub SB 402**.

ORIGINAL MOTION

On motion of Senator Bruce, the Senate acceded to the request of the House for a conference on **H Sub SB 128**.

Under the authority of the President, the Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Bruce, the Senate recessed until the sound of the gavel.

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

ORIGINAL MOTION

Senator Senator Bruce moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub SB 149, H Sub SB 193; SB 325, SB 418; S Sub HB 2365, S Sub HB 2509; HB 2696.**

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2615** 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 10, following line 38, by inserting:

"(j) "Community mental health center" means any community mental health center organized pursuant to K.S.A. 19-4001 through 19-4015, and amendments thereto, or a mental health clinic organized pursuant to K.S.A. 65-211 through 65-215, and amendments thereto, and licensed in accordance with K.S.A. 75-3307b, and amendments thereto.";

On page 11, following line 29, by inserting:

"Sec. 5. K.S.A. 75-6115 is hereby amended to read as follows: 75-6115. (a) The Kansas tort claims act shall not be applicable to claims arising from the rendering of or failure to render professional services by a health care provider other than:

- (1) A charitable health care provider;
- (2) a hospital owned by a municipality and the employees thereof;
- (3) a local health department and the employees thereof;
- (4) an indigent health care clinic and the employees thereof;~~or~~
- (5) a district coroner or deputy district coroner appointed pursuant to K.S.A. 22a-226, and amendments thereto;or
- (6) a community mental health center and the employees thereof.

(b) Claims for damages against a health care provider that is a governmental entity or an employee of a governmental entity other than those health care providers enumerated in subsection (a), arising out of the rendering of or failure to render professional services by such health care provider, may be recovered in the same manner as claims for damages against any other health care provider.

(c) As used in this section:

(1) "Indigent health care clinic" shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

(2) "Charitable health care provider" shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

(3) "Health care provider" shall have the meaning ascribed to such term under K.S.A. 40-3401, and amendments thereto.

(4) "Hospital" means a medical care facility as defined in K.S.A. 65-425, and

amendments thereto, and includes within its meaning any clinic, school of nursing, long-term care facility, child-care facility and emergency medical or ambulance service operated in connection with the operation of the medical care facility.

(5) "Local health department" shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

New Sec. 6. Sections 6 through 29, and amendments thereto, shall be known and may be cited as the acupuncture practice act.

New Sec. 7. As used in the acupuncture practice act:

(a) "ACAOM" means the national accrediting agency recognized by the U.S. department of education that provides accreditation for educational programs for acupuncture and oriental medicine. For purposes of the acupuncture practice act, the term ACAOM shall also include any entity deemed by the board to be the equivalent of ACAOM.

(b) "Act" means the acupuncture practice act.

(c) "Acupuncture" means the use of needles inserted into the human body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body and stimulating the body to restore itself to its proper functioning and state of health.

(d) "Board" means the state board of healing arts.

(e) "Council" means the acupuncture advisory council established by section 18, and amendments thereto.

(f) "Licensed acupuncturist" means any person licensed to practice acupuncture under the acupuncture practice act.

(g) "NCCAOM" means the national certification commission for acupuncture and oriental medicine. NCCAOM is a national organization that validates entry-level competency in the practice of acupuncture and oriental medicine through the administration of professional certification examinations. For purposes of the acupuncture practice act, the term NCCAOM shall also include any entity deemed by the board to be the equivalent of the NCCAOM.

(h) "Physician" means a person licensed to practice medicine and surgery or osteopathy in Kansas.

(i) "Practice of acupuncture" includes, but is not limited to:

(1) Techniques sometimes called "dry needling," "trigger point therapy," "intramuscular therapy," "auricular detox treatment" and similar terms;

(2) mechanical, thermal, pressure, suction, friction, electrical, magnetic, light, sound, vibration, manual and electromagnetic treatment;

(3) the use, application or recommendation of therapeutic exercises, breathing techniques, meditation and dietary and nutritional counselings; and

(4) the use and recommendation of herbal products and nutritional supplements, according to the acupuncturist's level of training and certification by the NCCAOM or its equivalent.

(j) "Practice of acupuncture" does not include:

(1) Prescribing, dispensing or administering of any controlled substances as defined in K.S.A. 65-4101 et seq., and amendments thereto, or any prescription-only drugs;

(2) the practice of medicine and surgery, including obstetrics and the use of lasers or ionizing radiation;

(3) the practice of osteopathic medicine and surgery or osteopathic manipulative treatment;

(4) the practice of chiropractic;

(5) the practice of dentistry; or

(6) the practice of podiatry.

New Sec. 8. (a) On and after July 1, 2017, except as otherwise provided in this act, no person shall practice acupuncture unless such person possesses a current and valid acupuncture license issued under this act.

(b) (1) No person shall depict oneself orally or in writing, expressly or by implication, as a holder of a license who does not hold a current license under this act.

(2) Only persons licensed under this act shall be entitled to use the title "licensed acupuncturist" or the designated letters "L.Ac."

(3) Nothing in this section shall be construed to prohibit an acupuncturist licensed under this act from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to denote any educational degrees, certifications or credentials which such licensed acupuncturist has earned.

(4) Violation of this section shall constitute a class B misdemeanor.

New Sec. 9. Needles used in the practice of acupuncture shall only be prepackaged, single-use and sterile. These needles shall only be used on an individual patient in a single treatment session.

New Sec. 10. (a) The following shall be exempt from the requirements for an acupuncture license pursuant to this act:

(1) Any person licensed in this state to practice medicine and surgery, osteopathy, dentistry or podiatry, a licensed chiropractor or a licensed naturopathic doctor, if the person confines the person's acts or practice to the scope of practice authorized by their health professional licensing laws and does not represent to the public that the person is licensed under this act;

(2) any herbalist or herbal retailer who does not hold oneself out to be a licensed acupuncturist;

(3) any health care provider in the United States armed forces, federal facilities and other military service when acting in the line of duty in this state;

(4) any student, trainee or visiting teacher of acupuncture, oriental medicine or herbology who is designated as a student, trainee or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist licensed under this act in a program that the council has approved. This includes continuing education programs and any acupuncture or herbology programs that are a recognized route by the NCCAOM, or its equivalent, to certification;

(5) any person rendering assistance in the case of an emergency or disaster relief;

(6) any person practicing self-care or any family member providing gratuitous care, so long as such person or family member does not represent or hold oneself out to the public to be an acupuncturist;

(7) any person who massages, so long as such person does not practice acupuncture or hold oneself out to be a licensed acupuncturist;

(8) any person whose professional services are performed pursuant to delegation by and under the supervision of a practitioner licensed under this act;

(9) any team acupuncturist or herbology practitioner, who is traveling with and treating those associated with an out-of-state or national team that is temporarily in the

state for training or competition purposes; and

(10) any person licensed as a physical therapist when performing dry needling, trigger point therapy or services specifically authorized in accordance with the provisions of the physical therapy practice act.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 11. An applicant for licensure as an acupuncturist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant:

- (a) Is at least 21 years of age;
- (b) has successfully completed secondary schooling or its equivalent;
- (c) has satisfactorily completed a course of study involving acupuncture from an accredited school of acupuncture which the board shall determine to have educational standards substantially equivalent to the minimum educational standards for acupuncture colleges as established by the ACAOM or NCCAOM;
- (d) has satisfactorily passed a license examination approved by the board;
- (e) has the reasonable ability to communicate in English; and
- (f) has paid all fees required for licensure pursuant to section 16, and amendments thereto.

New Sec. 12. (a) The board, without examination, may issue a license to a person who has been in the active practice of acupuncture in some other state, territory, the District of Columbia or other country upon certification by the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or received other disciplinary actions and that, so far as the records of such authority are concerned, the applicant is entitled to such licensing authority's endorsement. The applicant shall also present proof satisfactory to the board:

- (1) That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained in Kansas;
- (2) that the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state;
- (3) the date of the applicant's original license and all endorsed licenses and the date and place from which any license was attained;
- (4) the applicant has been actively engaged in practice under such license or licenses since issued. The board may adopt rules and regulations establishing qualitative and quantitative practice activities which qualify as active practice;
- (5) that the applicant has a reasonable ability to communicate in English; and
- (6) that the applicant has paid all the application fees as prescribed by section 16, and amendments thereto.

(b) An applicant for a license by endorsement shall not be licensed unless, as determined by the board, the applicant's individual qualifications are substantially equivalent to the Kansas requirements for licensure under the acupuncture practice act.

New Sec. 13. The board shall waive the education and examination requirements for an applicant who submits an application on or before January 1, 2018, and who, on or before July 1, 2017:

- (a) Is 21 years of age or older;

- (b) has successfully completed secondary schooling or its equivalent;
- (c) (1) (A) has completed a minimum of 1,350 hours of study, excluding online study in the field of acupuncture; and
 - (B) has been engaged in the practice of acupuncture with a minimum of 1,500 patient visits during a period of at least three of the five years immediately preceding July 1, 2017, as evidenced by two affidavits from office partners, clinic supervisors or other individuals approved by the board, who have personal knowledge of the years of practice and number of patients visiting the applicant for acupuncture. The board may adopt rules and regulations for further verification of the applicant's practice of acupuncture; or
 - (2) has satisfactorily passed a license examination approved by the board;
 - (d) has a reasonable ability to communicate in English; and
 - (e) has paid all fees required for licensure as prescribed by section 16, and amendments thereto.

New Sec. 14. (a) The license shall be canceled on March 31 of each year unless renewed in the manner prescribed by the board. In each case in which a license is renewed for a period of time of less than 12 months, the board may prorate the amount of the fee established under section 16, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the renewal date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensed acupuncturists shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

(d) At least 30 days before the renewal date of a licensee's license, the board shall notify the licensee of the renewal date by mail addressed to the licensee's last known mailing address. If the licensee fails to submit the renewal application and pay the renewal fee by the renewal date of the license, the licensee shall be given notice that the licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license, that the license will be deemed canceled if not renewed within 30 days following the renewal date, that upon receipt of the renewal application and renewal fee and an additional late fee established by rules and regulations not to exceed \$500 within the 30-day period, the license will not be canceled and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the board by rules and regulations. Any person who has not been in the active practice of acupuncture for which reinstatement is sought or who has not been

engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of an exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of acupuncture for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of acupuncture upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to section 16, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of acupuncture since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An inactive license shall not entitle the holder to practice acupuncture in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by subsection (b). Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to section 16, and amendments thereto. For those licensees whose licenses have been

inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of acupuncture or engaged in a formal education program since the license has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) This section shall take effect on and after July 1, 2017.

New Sec. 15. A person whose license has been revoked may apply for reinstatement after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by the fee established by the board in accordance with section 16, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement. If the board determines that a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

New Sec. 16. The board shall charge and collect in advance nonrefundable fees for acupuncturists as established by the board by rules and regulations, not to exceed:

Initial application for licensure	\$700
Annual renewal for active license – paper.....	\$300
Annual renewal for active license – online	\$250
Annual renewal for inactive license – paper	\$200
Annual renewal for inactive license – online	\$150
Annual renewal for exempt license – paper	\$200
Annual renewal for exempt license – online	\$150
Late renewal fee	\$100
Conversion from inactive to active license	\$300
Conversion from exempt to active license	\$300
Application for reinstatement of revoked license	\$1,000
Certified copy of license	\$25
Written verification of license	\$25

New Sec. 17. The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

New Sec. 18. (a) There is hereby established the acupuncture advisory council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas, appointed as follows:

(1) The board shall appoint one member who is a physician licensed to practice medicine and surgery or osteopathy. The member appointed by the board shall serve at the pleasure of the board. The governor shall appoint three acupuncturists who have at least three years' experience in acupuncture preceding appointment and are actively engaged, in this state, in the practice of acupuncture or the teaching of acupuncture. At least two of the governor's appointments shall be made from a list of four nominees submitted by the Kansas association of oriental medicine. The governor shall appoint one member from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible, persons appointed by the governor to the council shall be from different geographic areas.

(2) The members appointed by the governor shall be appointed for terms of four years and until a successor is appointed. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term.

(b) The council shall meet at least once each year at a time of its choosing at the board's main office and at such other times as may be necessary on the chairperson's call or on the request of a majority of the council's members.

(c) A majority of the council constitutes a quorum. No action may be taken by the council except by affirmative vote of the majority of the members present and voting.

(d) Members of the council attending meetings of the council, or a subcommittee of the council, shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto, from the healing arts fee fund.

New Sec. 19. The acupuncture advisory council shall advise the board regarding:

- (a) Examination, licensing and other fees;
- (b) rules and regulations to be adopted to carry out the provisions of this act;
- (c) the number of yearly continuing education hours required to maintain active licensure;
- (d) changes and new requirements taking place in the areas of acupuncture; and
- (e) such other duties and responsibilities as the board may assign.

New Sec. 20. The board shall promulgate all necessary rules and regulations which may be necessary to administer the provisions of this act and to supplement the provisions herein.

New Sec. 21. (a) A licensee's license may be revoked, suspended, limited or placed on probation, or the licensee may be publicly censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;
- (2) the licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license;

(3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;

(4) the licensee has been convicted of a felony;

(5) the licensee has violated any provision of the acupuncture practice act;

(6) the licensee has violated any lawful order or rule and regulation of the board;

(7) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(8) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(9) the licensee has surrendered a license or authorization to practice as an acupuncturist in another state or jurisdiction, has agreed to a limitation or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(10) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as an acupuncturist in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(11) the licensee has an adverse judgment, award or settlement rendered against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(12) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; or

(13) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or use of alcohol, drugs or controlled substances. When reasonable suspicion of impairment exists, the board may take action in accordance with K.S.A. 65-2842, and amendments thereto. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding. This provision regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

(b) The denial, refusal to renew, suspension, limitation, probation or revocation of a license or other sanction may be ordered by the board upon a finding of a violation of the acupuncture practice act. All administrative proceedings conducted pursuant to this act shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) This section shall take effect on and after July 1, 2017.

New Sec. 22. (a) The board shall have jurisdiction of proceedings to take disciplinary action against any licensee practicing under the acupuncture practice act. Any such action shall be taken in accordance with the Kansas administrative procedure act.

(b) Either before or after formal charges have been filed, the board and the licensee may enter into a stipulation which shall be binding upon the board and the licensee entering into such stipulation, and the board may enter its findings of fact and enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the case. An enforcement order based upon a stipulation may order any disciplinary action against the licensee entering into such stipulation.

(c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings provisions under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action against the licensee and that the licensee's continuation of practice would constitute an imminent danger to public health and safety.

(d) Judicial review and civil enforcement of any agency action under this act shall be in accordance with the Kansas judicial review act.

New Sec. 23. The board or a committee of the board may implement non-disciplinary resolutions concerning a licensed acupuncturist consistent with the provisions of K.S.A. 65-2838a, and amendments thereto.

New Sec. 24. The state board of healing arts, in addition to any other penalty prescribed under the acupuncture practice act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the acupuncture practice act in an amount not to exceed \$2,000 for a first violation, \$5,000 for a second violation and \$10,000 for a third violation and any subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4218, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. Fines collected under this section shall be considered administrative fines pursuant to 11 U.S.C. § 523.

New Sec. 25. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information, except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act.

(b) Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be re-disclosed by the receiving agency except as otherwise authorized by law.

(c) This section regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

New Sec. 26. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against a person licensed, registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice acupuncture and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against any licensee, registrant or certificate holder to the state board of healing arts or to any committee or agent thereof, shall be immune from liability in any civil action that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

New Sec. 27. (a) The confidential relations and communications between a licensed acupuncturist and the acupuncturist's patient are placed on the same basis as those established between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 28. (a) When it appears that any person is violating any provision of this act, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard as to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 29. If any provision of the acupuncture practice act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the acupuncture practice act which can be given effect without the invalid provision or application, and to this end the provisions of the acupuncture practice act are declared to be severable.

Sec. 30. K.S.A. 2015 Supp. 65-2872 is hereby amended to read as follows: 65-2872. The practice of the healing arts shall not be construed to include the following persons:

(a) Persons rendering gratuitous services in the case of an emergency.

- (b) Persons gratuitously administering ordinary household remedies.
- (c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.
- (d) Students while in actual classroom attendance in an accredited healing arts school who after completing one year's study treat diseases under the supervision of a licensed instructor.
- (e) Students upon the completion of at least three years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed 180 days under the supervision of a licensed practitioner.
- (f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.
- (g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.
- (h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals or groups, or both, provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.
- (i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.
- (j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state.
- (k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (o) Every act or practice falling in the field of the healing arts, not specifically excepted herein, shall constitute the practice thereof.
- (p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.

(s) Acupuncturists, when licensed and practicing in accordance with sections 6 through 29, and amendments thereto, rules and regulations adopted thereto, and interpretations thereof by the supreme court of this state.

(t) Persons licensed by the state board of cosmetology practicing their professions, when licensed and practicing under and in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

New Sec. 31. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist.

(b) This section shall be part of and supplemental to the physical therapy practice act.

Sec. 32. K.S.A. 2015 Supp. 65-2901 is hereby amended to read as follows: 65-2901. ~~As used in article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto the physical therapy practice act:~~

(a) "Physical therapy" means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in community or work integration or reintegration; manual therapy; dry needling; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist who is licensed pursuant to ~~article 29 of chapter 65 of the Kansas~~

~~Statutes Annotated, and amendments thereto~~ the physical therapy practice act. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

(b) "Physical therapist" means a person who is licensed to practice physical therapy pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist and may designate or describe oneself, as appropriate, as a physical therapist, physiotherapist, licensed physical therapist, doctor of physical therapy, abbreviations thereof, or words similar thereto or use of the designated letters P.T., Ph. T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(c) "Physical therapist assistant" means a person who is certified pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~, the physical therapy practice act and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(d) "Board" means the state board of healing arts.

(e) "Council" means the physical therapy advisory council.

(f) "Dry needling" means a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments.

(g) "Physician" means a person licensed to practice medicine and surgery.

~~(g)~~ (h) "Recognized by the board" means an action taken by the board at an open meeting to recognize letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials, consistent with the provisions of this act, which a physical therapist may appropriately use to designate or describe oneself and which shall be published in the official minutes of the board.

Sec. 33. K.S.A. 2015 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ the physical therapy practice act as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist, licensed physical therapist or doctor of physical therapy or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ the physical therapy practice act shall be guilty of a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ the physical therapy practice act shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) ~~of this section~~:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;
- (5) licensees under the healing arts act, and practicing their professions, when

licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under ~~subsection (g)~~ of K.S.A. 65-2872(g), and amendments thereto;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under ~~subsection (m)~~ of K.S.A. 65-1124(m), and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;

(9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;

(10) self-care by a patient or gratuitous care by a friend or family member;

(11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;

(14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) persons practicing corrective therapy in accordance with their training in corrective therapy;

(17) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto; ~~and~~

(22) naturopathic doctors practicing their profession when licensed and practicing in accordance with the naturopathic doctor licensure act; and

(23) acupuncturists practicing their profession when licensed and practicing in

accordance with the acupuncture practice act.

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act.

New Sec. 34. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the behavioral sciences regulatory board may require a person 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 another jurisdiction. The behavioral sciences regulatory board 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 behavioral sciences regulatory board 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, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the behavioral sciences regulatory board in the taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the behavioral sciences regulatory board.

(c) The behavioral sciences regulatory board may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the behavioral sciences regulatory board fee fund. The behavioral sciences regulatory board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the behavioral sciences regulatory board fee fund.

Sec. 35. K.S.A. 65-5806 is hereby amended to read as follows: 65-5806. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 65-5808, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 65-5808, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, a licensee shall complete not less than six continuing education hours relating to

diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-5808, and amendments thereto.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 36. K.S.A. 2015 Supp. 65-5807 is hereby amended to read as follows: 65-5807. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice professional counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice professional counseling in the other jurisdiction are substantially equivalent to the requirements of this state; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice professional counseling ~~during the five years~~ for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) ~~a masters~~ master's degree in counseling from a regionally accredited university or college.

(b) Applicants for licensure as a clinical professional counselor shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2)~~ of subsection (a) (1) or (a)(2) and at least two of the following areas acceptable to the board:

(1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-5808, and amendments thereto, if required by the board.

Sec. 37. K.S.A. 65-5808 is hereby amended to read as follows: 65-5808. (a) The board ~~shall may~~ fix by rules and regulations the following fees, and any such fees shall be established by rules and regulations adopted by the board:

(1) For application for licensure as a professional counselor, not more than \$100;

(2) for an original license as a professional counselor, not more than \$175;

(3) for ~~examination~~ a temporary license as a professional counselor, not more than \$175;

~~(4) for renewal of a license for licensure as a professional counselor, not more than \$150;~~

~~(5) for reinstatement of a license, not more than \$175;~~

~~(6) for replacement of a license, not more than \$20;~~

~~(7) for application for licensure as a clinical professional counselor, not more than \$175;~~

(6) for licensure as a clinical professional counselor, not more than \$175;

~~(8)(7) for renewal for licensure as a clinical professional counselor, not more than \$175;~~

~~(9)(8) for late renewal penalty, an amount equal to the fee for renewal of a license; and~~

~~(10) for exchange of a license in lieu of registration pursuant to subsection (b) of K.S.A. 65-5811 and amendments thereto, not to exceed \$150~~

~~(9) for reinstatement of a license, not more than \$175;~~

~~(10) for replacement of a license, not more than \$20; and~~

~~(11) for a wallet card license, not more than \$5.~~

~~(b) Fees paid to the board are not refundable.~~

Sec. 38. K.S.A. 2015 Supp. 65-5809 is hereby amended to read as follows: 65-5809. (a) The board may refuse to issue, suspend, limit, refuse to renew, condition or revoke any license granted under the professional counselors licensure act for any of the following reasons:

~~(a) Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in the practice of professional counseling;~~

~~(b) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;~~

~~(c) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of the professional counselors licensure act or in obtaining permission to take any examination given or required pursuant to the provisions of the professional counselors licensure act;~~

~~(d) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;~~

~~(e) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor or clinical professional counselor;~~

~~(f) violation of, or assisting or enabling any individual to violate, any provision of the professional counselors licensure act or any rule and regulation adopted under such act;~~

~~(g) impersonation of any individual holding a license or allowing any individual to use a license or diploma from any school of a person licensed under the professional counselors licensure act or a diploma from any school of an applicant for licensure under the professional counselors licensure act;~~

~~(h) revocation or suspension of a license or other authorization to practice counseling granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized by the professional counselors licensure act;~~

~~(i) the individual is mentally ill or physically disabled to an extent that impairs the individual's ability to engage in the practice of professional counseling;~~

~~(j) assisting or enabling any person to hold oneself out to the public or offer to hold oneself out to the public as a licensed professional counselor or a licensed clinical professional counselor who is not licensed under the provisions of the professional counselors licensure act;~~

~~(k) the issuance of the license was based upon a material mistake of fact;~~

~~(l) violation of any professional trust or confidence;~~

~~(m) use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;~~

~~(n) unprofessional conduct as defined by rules and regulations adopted by the board; or~~

~~(o) the licensee renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for licensure:~~

~~(1) Is incompetent to practice professional counseling, which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice professional counseling;~~

~~(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(5) has violated a provision of the professional counselors licensure act or one or more rules and regulations of the board;~~

~~(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;~~

~~(7) has knowingly made a false statement on a form required by the board for a license or license renewal;~~

~~(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;~~

~~(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or~~

~~(10) has had a registration, license or certificate as a professional counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence~~

thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the professional counselors licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the professional counselors licensure act shall be in accordance with the Kansas judicial review act.

New Sec. 39. On and after July 1, 2017, all licensees providing postgraduate clinical supervision for those working toward clinical licensure must be board-approved clinical supervisors.

(a) Applications for a board-approved clinical supervisor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-5808, and amendments thereto.

(b) Each applicant for board-approved clinical supervisor shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Is currently licensed as a clinical professional counselor and has practiced as a clinical professional counselor for two years beyond the supervisor's licensure date; or

(B) is a person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the independent practice of counseling, therapy, or psychotherapy and has practiced at least two years of clinical practice beyond the date of licensure at this level;

(2) does not have any disciplinary action that would prohibit providing clinical supervision; and

(3) (A) has completed the minimum number of semester hours of coursework related to the enhancement of supervision skills approved by the board; or

(B) has completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the board.

(c) Each board-approved clinical supervisor shall complete, as part of the continuing education required under K.S.A. 65-5806, and amendments thereto, at least three hours of continuing education related to the enhancement of supervisory skills, and at least one such hour must focus on ethics in supervision.

Sec. 40. K.S.A. 2015 Supp. 65-6309 is hereby amended to read as follows: 65-6309. (a) Except as provided in subsections (b) and (c), an applicant shall be exempted from the requirement for any examination provided for herein if:

(1) The applicant proves to the board that the applicant is licensed or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this act as determined by the board; and

(2) pursuant to the laws of any such state or territory, the applicant has taken and passed an examination similar to that for which exemption is sought, as determined by the board.

(b) The board may issue a license to an individual who is currently licensed to practice social work at the clinical level in another jurisdiction if the board determines that:

(1) The standards for licensure to practice social work at the clinical level in the

other jurisdiction are substantially equivalent to the requirements of this state for licensure at the clinical level; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Licensure to practice social work at the clinical level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a licensing board or agency; and

(C) a ~~masters~~ master's or doctoral degree in social work from a regionally accredited university or college and from an accredited graduate social work program recognized and approved by the board pursuant to rules and regulations adopted by the board.

(c) Applicants for licensure as a clinical specialist social worker shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the following requirements:

(1) Passing a national clinical examination approved by the board or, in the absence of the national examination, continuous licensure to practice as a clinical social worker during the 10 years immediately preceding the application; and

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders.

(d) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-6314, and amendments thereto, if required by the board.

(e) Upon application, the board shall issue temporary licenses to persons who have submitted documentation and met all qualifications for licensure under provisions of this act, except passage of the required examination, and who have paid the required fee.

~~(f) Such persons shall take the license examination within six months subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board.~~

~~(g)~~—Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies a license to practice social work or six months after the date of issuance of the temporary license. No temporary license will be renewed or issued again on any subsequent applications for the same license level. The preceding provisions in no way limit the number of times an applicant may take the examination.

~~(h)~~ (g) No person may work under a temporary license except under the supervision of a licensed social worker.

~~(i)~~ (h) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

~~(j)~~ (i) Any individual employed by a hospital and working in the area of hospital

social services to patients of such hospital on July 1, 1974, is exempt from the provisions of this act.

~~(k) If an applicant is denied licensure, the board shall provide the applicant with a written explanation of the denial within 10 days after the decision of the board, excluding Saturdays, Sundays and legal holidays.~~

Sec. 41. K.S.A. 2015 Supp. 65-6311 is hereby amended to read as follows: 65-6311. (a) ~~The board may suspend, limit, revoke, condition or refuse to issue or renew a license of any social worker upon proof that the social worker:~~

~~(1) Has been convicted of a felony and, after investigation, the board finds that the licensee has not been sufficiently rehabilitated to merit the public trust;~~

~~(2) has been found guilty of fraud or deceit in connection with services rendered as a social worker or in establishing needed qualifications under this act;~~

~~(3) has knowingly aided or abetted a person, not a licensed social worker, in representing such person as a licensed social worker in this state;~~

~~(4) has been found guilty of unprofessional conduct as defined by rules established by the board;~~

~~(5) has been found to have engaged in diagnosis as authorized under K.S.A. 65-6319, and amendments thereto, even though not authorized to engage in such diagnosis under K.S.A. 65-6319, and amendments thereto;~~

~~(6) has been found guilty of negligence or wrongful actions in the performance of duties; or~~

~~(7) refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:~~

~~(1) Is incompetent to practice social work, which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice social work;~~

~~(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(5) has violated a provision of the social workers licensure act or one or more rules and regulations of the board;~~

~~(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;~~

~~(7) has knowingly made a false statement on a form required by the board for a license or license renewal;~~

(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a license, registration or certificate to practice social work revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license, registration or certificate denied, by the proper licensing regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) Proceedings to consider the suspension, revocation or refusal to renew a license shall be conducted in accordance with the provisions of the Kansas administrative procedure act. For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the social workers licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the social workers licensure act shall be in accordance with the Kansas judicial review act.

Sec. 42. K.S.A. 2015 Supp. 65-6313 is hereby amended to read as follows: 65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) (1) Except as otherwise provided in K.S.A. 65-6311, and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314, and amendments thereto, and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board including not less than three continuing education hours of professional ethics.

(2) An applicant for renewal of a license as a master social worker or a specialist clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders.

~~(3) On and after January 1, 2011,~~ An applicant for first time licensure renewal as a baccalaureate social worker, master social worker or specialist clinical social worker, as part of such continuing education, shall complete not less than six hours of social worker safety awareness training. If the applicant for first time licensure renewal has already taken such training, as part of a previous level of social work licensure renewal, then the applicant is not required to complete an additional six hours of social worker safety training.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314, and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon

receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314, and amendments thereto, for such duplicate license.

(f) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 43. K.S.A. 65-6314 is hereby amended to read as follows: 65-6314. (a) The following fees ~~shall may~~ be established by the board ~~by rules and regulations~~ in accordance with the following limitations, ~~and any such fees shall be established by rules and regulations adopted by the board:~~

(1) Renewal or reinstatement fee for a license as a social work associate shall be not more than \$150.

(2) Application, new license, reinstatement or renewal fee for a license as a baccalaureate social worker shall be not more than \$150.

(3) Application, new license, reinstatement or renewal fee for a license as master social worker shall be not more than \$150.

(4) Application, new license, reinstatement or renewal fee for a license in a social work specialty shall be not more than \$150.

~~(5) Examination fee for a license as a baccalaureate social worker, for a license as a master social worker or for a license in a social work specialty shall be not more than \$200. If an applicant fails an examination, such applicant may be admitted to subsequent examinations upon payment of an additional fee prescribed by the board of not more than \$200.~~

~~(6) Replacement fee for reissuance of a license certificate due to loss or name change shall be not more than \$20.~~

(6) Replacement fee for reissuance of a wallet card shall be not more than \$5.

(7) Temporary license fee for a baccalaureate social worker, master social worker or a social work specialty shall be not more than \$50.

(8) Application fee for approval as board-approved continuing education sponsors shall be as follows:

(A) Initial application fee for one year provisionally approved providers shall be not more than \$125;

(B) three-year renewal fees for approved providers shall be not more than \$350; and

(C) application fees for single program providers shall be not more than \$50 for each separately offered continuing education activity for which prior approval is sought.

(b) Fees paid to the board are not refundable.

New Sec. 44. K.S.A. 65-6301 through 65-6320, and this section, and amendments thereto, shall be known and may be cited as the social workers licensure act.

Sec. 45. K.S.A. 2015 Supp. 65-6405 is hereby amended to read as follows: 65-6405. (a) A person who is waiting to take the examination required by the board may apply to the board for a temporary license to practice as a licensed marriage and family therapist by:

(1) Paying an application fee of no more than \$150, as established by the board under K.S.A. 65-6411, and amendments thereto; and

(2) meeting the application requirements as stated in ~~subsections (a)(1), (2) and (4) of K.S.A. 65-6404(a)(1), (a)(2) and (a)(4),~~ and amendments thereto.

(b) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies the person a license to practice marriage and family therapy or 12 months after the date of issuance of the temporary license.

~~(3) A temporary licensee shall take the license examination within six months subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board or if the temporary licensee does not take the license examination within six months subsequent to the date of issuance of the temporary license and no extenuating circumstances have been approved by the board, the temporary license will expire after the first six months.~~

(4) No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

(c) A person practicing marriage and family therapy with a temporary license may not use the title "licensed marriage and family therapist" or the initials "LMFT" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed marriage and family therapist by temporary license, or marriage and family therapist, temporarily licensed.

(d) No person may practice marriage and family therapy under a temporary license except under the supervision of a person licensed by the behavioral sciences regulatory board at the independent level.

(e) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

Sec. 46. K.S.A. 2015 Supp. 65-6406 is hereby amended to read as follows: 65-6406. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice marriage and family therapy in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice marriage and family therapy in the other jurisdiction are substantially the equivalent of the requirements of the marriage and family therapists licensure act and rules and regulations of the board;

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice marriage and family therapy ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration,

certification or licensing board or agency; and

(C) completion of a ~~masters~~ master's degree in marriage and family therapy from a regionally accredited university.

(b) Applicants for licensure as a clinical marriage and family therapist shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2)~~ of subsection (a) (1) or (2) and at least two of the following areas acceptable to the board:

(1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-6411, and amendments thereto, if required by the board.

Sec. 47. K.S.A. 65-6407 is hereby amended to read as follows: 65-6407. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 65-6411, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 65-6411, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, the applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-6411, and amendments thereto.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 48. K.S.A. 65-6408 is hereby amended to read as follows: 65-6408. The board may refuse to ~~grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure of any individual who the board, after a hearing, determines issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:~~

(1) Is incompetent to practice marriage and family therapy, ~~or is found to engage in the practice of marriage and family therapy in a manner harmful or dangerous to a client or to the public which means:~~

(A) One or more instances involving failure to adhere to the applicable standard of

care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice marriage and family therapy;

(2) is has been convicted by a court of competent jurisdiction of a crime that the board determines is of a nature to render the convicted person unfit to practice marriage and family therapy felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the marriage and family therapists licensure act or one or more of the rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for license or license renewal;

(8) has failed to obtain continuing education credits required by rules and regulations of the board;

(9) has been found guilty of to have engaged in unprofessional conduct as defined by applicable rules and regulations established adopted by the board; or

(10) has had a registration, license or certificate as a marriage and family therapist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the marriage and family therapists licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the marriage and family therapists licensure act shall be in accordance with the Kansas judicial review act.

Sec. 49. K.S.A. 65-6411 is hereby amended to read as follows: 65-6411. (a) The board ~~shall may fix by rules and regulations and shall collect~~ the following fees, ~~and any such fees shall be established by rules and regulations adopted by the board:~~

(1) For application for licensure ~~as a marriage and family therapist~~, not to exceed \$150;

(2) for original licensure ~~as a marriage and family therapist~~, not to exceed \$175;

- (3) ~~for examination, not to exceed \$275;~~
 (4) ~~for renewal of a license for licensure as a marriage and family therapist, not to exceed \$175;~~
 (5) ~~(4) for application for licensure as a clinical marriage and family therapist, not to exceed \$175;~~
 (5) for original licensure as a clinical marriage and family therapist, not to exceed \$175;
 (6) for renewal for licensure as a clinical marriage and family therapist, not to exceed \$175;
 (7) for reinstatement of a license, not to exceed \$175;
 (8) for replacement of a license, not to exceed \$20; ~~and~~
 (9) ~~for late charges, not to exceed \$5 for each 30 days of delay beyond the date the renewal application was to be made~~ renewal penalty, an amount equal to the renewal of license; and
 (10) for a wallet card license, not to exceed \$5.

(b) Fees paid to the board are not refundable.

New Sec. 50. On and after July 1, 2017, all licensees providing postgraduate clinical supervision for those working toward clinical licensure must be board-approved clinical supervisors.

(a) Applications for board-approved clinical supervisor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-6411, and amendments thereto.

(b) Each applicant for board-approved clinical supervisor shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Is currently licensed as a clinical marriage and family therapist and has practiced as a clinical marriage and family therapist for two years beyond the supervisor's licensure date; or

(B) be a person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the diagnosis and treatment of mental disorders and shall have at least two years of professional experience in the independent practice of clinical marriage and family therapy beyond the date of licensure at this level;

(2) does not have any disciplinary action that would prohibit providing clinical supervision; and

(3) (A) has completed the minimum number of semester hours of coursework related to the enhancement of supervision skills approved by the board; or

(B) has completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the board.

(c) Each board-approved clinical supervisor shall complete, as part of the continuing education required under K.S.A. 65-6407, and amendments thereto, at least three hours of continuing education related to the enhancement of supervisory skills, and at least one such hour must focus on ethics in supervision.

Sec. 51. K.S.A. 2015 Supp. 65-6607 is hereby amended to read as follows: 65-6607. K.S.A. 2015 Supp. 65-6607 through 65-6620, and amendments thereto, shall be known and may be cited as the ~~addictions~~ addiction counselor licensure act.

Sec. 52. K.S.A. 2015 Supp. 65-6608 is hereby amended to read as follows: 65-6608. As used in the ~~addictions~~ addiction counselor licensure act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501, and amendments thereto.

(b) "Addiction counseling" means the utilization of special skills to assist persons with addictions, and to assist such persons' families and friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and feelings, the consideration of alternative solutions and decision making, as these relate specifically to addiction. Evaluation and assessment, treatment including treatment plan development, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling. Additionally, at the clinical level of licensure, addiction counseling includes independent practice and the diagnosis and treatment of substance use disorders.

(c) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or in completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt ~~for from~~ licensure under ~~subsection (m)~~ of K.S.A. 59-29b46(n), and amendments thereto.

(d) "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

(e) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed under this act.

Sec. 53. K.S.A. 2015 Supp. 65-6609 is hereby amended to read as follows: 65-6609. (a) ~~On and after September 1, 2011,~~ No person shall engage in the practice of addiction counseling or represent that such person is a licensed addiction counselor or is an addiction counselor ~~or~~, a substance abuse counselor or an alcohol and drug counselor without having first obtained a license as an addiction counselor under the ~~addictions~~ addiction counselor licensure act.

(b) On and after September 1, 2016, no person shall engage in the practice of addiction counseling or represent that such person is a licensed master's addiction counselor, master's addiction counselor, master's substance abuse counselor or master's alcohol and drug counselor without having first obtained a license as a master's addiction counselor under the addiction counselor licensure act.

(c) ~~On and after September 1, 2011,~~ No person shall engage in the practice of addiction counseling as a clinical addiction counselor or represent that such person is a licensed clinical addiction counselor ~~or is~~, a clinical addiction counselor ~~or~~, a clinical substance abuse counselor or a clinical alcohol and drug counselor without having first obtained a license as a clinical addiction counselor under the addiction counselor

licensure act.

~~(e)~~(d) Violation of this section is a class B misdemeanor.

Sec. 54. K.S.A. 2015 Supp. 65-6610 is hereby amended to read as follows: 65-6610. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

(1) Has attained the age of 21; ~~and~~

(2) (A) has completed at least a baccalaureate degree from an addiction counseling program that is part of a college or university approved by the board; or

(B) has completed at least a baccalaureate degree from a college or university approved by the board ~~in a related field that includes~~. As part of, or in addition to, the baccalaureate degree coursework, such applicant shall also complete a minimum number of semester hours of coursework on substance use disorders as approved by the board; or

~~(C) has completed at least a baccalaureate degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board, and such degree program and the additional coursework includes a minimum number of semester hours of coursework on substance use disorders as approved by the board; or~~

~~(D)~~ is currently licensed in Kansas as a licensed baccalaureate social worker and has completed a minimum number of semester hours of coursework on substance use disorders as approved by the board; ~~or and~~

~~(E) is currently licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed masters level psychologist; and~~

(3) has passed an examination approved by the board; ~~and~~

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) ~~each applicant~~ has paid the application fee established by the board under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(b) Applications for licensure as a master's addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Has attained the age of 21;

(B) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board;

(ii) has completed at least a master's degree from a college or university approved by the board. As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; or

(iii) is currently licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed master's level psychologist; and

(C) has passed an examination approved by the board;

(D) has satisfied the board that the applicant is a person who merits the public trust; and

(E) has paid the application fee fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; or

(2) (A) has met the following requirements on or before July 1, 2016:
(i) Holds an active license by the board as an addiction counselor; and
(ii) has completed at least a master's degree in a related field from a college or university approved by the board; and

(B) has completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date.

(c) Applications for licensure as a clinical addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(1) Has attained the age of 21; and

(2) (A) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(B) (i) has completed at least a master's degree from a college or university approved by the board ~~in a related field that includes~~. As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional

experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(C) (i) ~~has completed a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and~~

~~(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or~~

~~(D) (i) has completed a master's degree in a related field from a college or university approved by the board and is licensed by the board as a licensed master's addiction counselor; and~~

~~(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-~~

person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(E) is currently licensed in Kansas as a licensed psychologist, licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical psychotherapist or licensed clinical marriage and family therapist and provides to the board an attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders; and

(3) has passed an examination approved by the board; and

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) has paid the application fee fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

~~(e)~~ (d) Prior to July 1, 2017, a person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the Kansas department for aging and disability services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, who was registered in Kansas as an alcohol and other drug counselor, an alcohol and drug credentialed counselor or a credentialed alcohol and other drug abuse counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed addiction counselor by providing demonstration acceptable to the board of competence to perform the duties of an addiction counselor.

~~(e)~~ (e) Prior to July 1, 2017, any person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, and who is also licensed to practice independently as a mental health practitioner or person licensed to practice medicine and surgery, and who was registered or credentialed in Kansas as an alcohol and other drug counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

~~(e)~~ (f) Prior to July 1, 2017, any person who was credentialed by the department of social and rehabilitation services as an alcohol and drug counselor and has been actively

engaged in the practice, supervision or administration of addiction counseling in Kansas for not less than four years and holds a master's degree in a related field from a college or university approved by the board and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

~~(f) A licensed addiction counselor shall engage in the practice of addiction counseling only in a state licensed or certified alcohol and other drug treatment program, unless otherwise exempt from licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.~~

Sec. 55. K.S.A. 2015 Supp. 65-6611 is hereby amended to read as follows: 65-6611. (a) A person who is waiting to take the examination for licensure as an addiction counselor may apply to the board for a temporary license to practice as a licensed addiction counselor by: (1) Paying an application fee for a temporary license fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; and (2) meeting the application requirements as stated in ~~subsections (a)(1), (2) and (4) of K.S.A. 2015 Supp. 65-6610(a)(1), (a)(2) and (a)(4), and amendments thereto.~~

(b) A person who is waiting to take the examination for licensure as a master's addiction counselor may apply to the board for a temporary license to practice as a licensed master's addiction counselor by: (1) Paying an application fee for a temporary license fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; and (2) meeting the application requirements as stated in K.S.A 2015 Supp. 65-6610(b)(1), (b)(2) and (b)(4), and amendments thereto.

(c) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies the person a license to practice addiction counseling or 12 months after the date of issuance of the temporary license.

(3) No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

(d) A person practicing addiction counseling with a temporary license may not use the title "licensed addiction counselor" or "licensed master's addiction counselor" or use the initials "LAC" or "LMAC" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed addiction counselor by temporary license, or addiction counselor, temporarily licensed.

(e) No person may practice addiction counseling under a temporary license except in a licensed or certified alcohol and other drug abuse program, under the direction of a person licensed by the behavioral sciences regulatory board at the clinical level or a person licensed to practice medicine and surgery.

(f) Nothing in this section shall affect any temporary license to practice issued

under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such license.

Sec. 56. K.S.A. 2015 Supp. 65-6612 is hereby amended to read as follows: 65-6612. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of addiction counseling at the clinical level in another jurisdiction and who is in good standing in that other jurisdiction may engage in the independent practice of clinical addiction counseling as provided by the ~~addictions~~ addiction counselor licensure act, in this state for not more than 15 days per year upon receipt of a temporary permit to practice issued by the board.

(b) Any clinical addiction counseling services rendered within any 24-hour period shall count as one entire day of clinical addiction counseling services.

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire December 31 of that year. Upon written application and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days.

(d) The board shall charge a fee for a temporary permit to practice and a fee for an extension of a temporary permit to practice as fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(e) A person who holds a temporary permit to practice clinical addiction counseling in this state shall be deemed to have submitted to the jurisdiction of the board and shall be bound by the statutes and regulations that govern the practice of clinical addiction counseling in this state.

(f) In accordance with the Kansas administrative procedure act, the board may issue a cease and desist order or assess a fine of up to \$1,000 per day, or both, against a person licensed in another jurisdiction who engages in the independent practice of clinical addiction counseling in this state without complying with the provisions of this section.

Sec. 57. K.S.A. 2015 Supp. 65-6613 is hereby amended to read as follows: 65-6613. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice addiction counseling in the other jurisdiction are substantially the equivalent of the requirements of the ~~addictions~~ addiction counselor licensure act and rules and regulations of the board; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice as an addiction counseling ~~during the five years~~ counselor for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; ~~and~~

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) completion of at least a baccalaureate ~~or master's degree in addiction~~

~~counseling from a college or university approved by the board or completion of a baccalaureate or master's degree in a related field that includes all required addiction coursework.~~

~~(b) The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling at the master's level in another jurisdiction if the board determines that:~~

~~(1) (A) The standards for registration, certification or licensure to practice addiction counseling at the master's level in the other jurisdiction are substantially the equivalent of the requirements of the addiction counselor licensure act and rules and regulations of the board; and~~

~~(B) completion of at least a master's degree from a college or university approved by the board; or~~

~~(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:~~

~~(A) Registration, certification or licensure to practice addiction counseling at the master's level for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;~~

~~(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and~~

~~(C) completion of at least a master's degree from a college or university approved by the board.~~

~~(c) The board may issue a license to an individual who is currently registered, certified or licensed to practice ~~clinical~~ addiction counseling at the ~~clinical level~~ in another jurisdiction if the board determines that:~~

~~(1) (A) The standards for registration, certification or licensure to practice ~~clinical~~ addiction counseling at the ~~clinical level~~ in the other jurisdiction are substantially the equivalent of the requirements of the ~~addictions~~ addiction counselor licensure act and rules and regulations of the board; ~~or and~~~~

~~(B) the applicant demonstrates completion of at least a master's degree from a college or university approved by the board; or~~

~~(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:~~

~~(A) ~~Continuous~~ Registration, certification or licensure to practice ~~clinical~~ addiction counseling ~~during the five years~~ at the ~~clinical level~~ for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; ~~and~~~~

~~(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; ~~and~~~~

~~(C) (i) completion of at least a master's degree in ~~clinical addiction counseling~~ from a college or university approved by the board; ~~or~~~~

~~(ii) completion of at least a master's degree from a college or university approved by the board in a related field that includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; or~~

~~(iii) completion of at least a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from~~

a college or university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(D) at least two of the following areas acceptable to the board:

(i) Either coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board; ~~or~~

(ii) three years of clinical practice with demonstrated experience supporting diagnosing or treating substance use disorders; or

(iii) attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders.

~~(e)~~ (d) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 2015 Supp. 65-6618, and amendments thereto, if required by the board.

Sec. 58. K.S.A. 2015 Supp. 65-6614 is hereby amended to read as follows: 65-6614. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board, including not less than three hours in ethics. In addition, as part of such continuing education, the master's addiction counselor applicant and the clinical addiction counselor applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of substance use disorders. Both the clinical addiction counselor applicant and the addiction counselor applicant shall complete not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 59. K.S.A. 2015 Supp. 65-6615 is hereby amended to read as follows: 65-6615. (a) The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure issued under this act of any individual who the board, after the opportunity for a hearing, determines:

~~(a)~~ issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:

(1) Is incompetent to practice addiction counseling, ~~or is found to engage in the~~

practice of addiction counseling in a manner harmful or dangerous to a client or to the public which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice addiction counseling;

~~(b) (2) is has been convicted by a court of competent jurisdiction of a felony, misdemeanor crimes against persons or substantiation of abuse against a child, adult or resident of a care facility, even if not practice related offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

~~(e) (5) has violated a provision of the ~~addictions~~ addiction counselor licensure act or one or more of the rules and regulations of the board;~~

~~(f) (6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;~~

~~(g) (7) has knowingly made a false statement on a form required by the board for license or license renewal;~~

~~(h) (8) has failed to obtain continuing education credits required by rules and regulations of the board;~~

~~(i) (9) has been found ~~guilty of~~ to have engaged in unprofessional conduct as defined by applicable rules and regulations ~~established~~ adopted by the board; or~~

~~(j) (10) has had a registration, license or certificate as an addiction counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.~~

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the addiction counselor licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the addiction counselor licensure act shall be in accordance with the Kansas judicial review act.

Sec. 60. K.S.A. 2015 Supp. 65-6616 is hereby amended to read as follows: 65-6616. Nothing in the ~~addictions~~ addiction counselor licensure act shall be construed:

(a) To prevent addiction counseling practice by students or interns or individuals preparing for the practice of addiction counseling to practice under qualified supervision of a professional, recognized and approved by the board, in an educational institution or agency so long as they are designated by titles such as "student," "trainee," "intern" or other titles clearly indicating training status;

(b) to authorize the practice of psychology, medicine and surgery, professional counseling, marriage and family therapy, master's level psychology or social work or other professions licensed by the behavioral sciences regulatory board;

(c) to apply to the activities and services of a rabbi, priest, minister, clergy person or organized ministry of any religious denomination or sect, including a Christian-Science practitioner, unless such person or individual who is a part of the organized ministry is a licensed addiction counselor;

(d) to apply to the activities and services of qualified members of other professional groups including, but not limited to, attorneys, physicians, psychologists, master's level psychologists, marriage and family therapists, professional counselors, or other professions licensed by the behavioral sciences regulatory board, registered nurses or social workers performing services consistent with the laws of this state, their training and the code of ethics of their profession, so long as they do not represent themselves as being an addiction counselor; or

(e) to prevent qualified persons from doing work within the standards and ethics of their respective professions and callings provided they do not hold themselves out to the public by any title or description of services as being an addiction counselor.

Sec. 61. K.S.A. 2015 Supp. 65-6617 is hereby amended to read as follows: 65-6617. (a) A person licensed under the ~~addictions~~ addiction counselor licensure act and employees and professional associates of the person shall not be required to disclose any information that the person, employee or associate may have acquired in rendering addiction counseling services, unless:

(1) Disclosure is required by other state laws;

(2) failure to disclose the information presents a clear and present danger to the health or safety of an individual;

(3) the person, employee or associate is a party defendant to a civil, criminal or disciplinary action arising from the therapy, in which case a waiver of the privilege accorded by this section is limited to that action;

(4) the client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses in that person's behalf; or

(5) a client agrees to a waiver of the privilege accorded by this section, and in circumstances where more than one person in a family is receiving therapy, each such family member agrees to the waiver. Absent a waiver from each family member, an addiction counselor shall not disclose information received from a family member.

(b) Nothing in this section or in this act shall be construed to prohibit any person licensed under the ~~addictions~~ addiction counselor licensure act from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of a client. There is no privilege under this section for information which is required to be reported to a public official.

Sec. 62. K.S.A. 2015 Supp. 65-6618 is hereby amended to read as follows: 65-6618. (a) The board ~~shall may~~ fix by rules and regulations and shall collect the following fees, and any such fees shall be established by rules and regulations adopted by the board:

- (1) For application for licensure as an addiction counselor, not to exceed \$150;
- (2) for original licensure as an addiction counselor, not to exceed \$150;
- (3) for renewal ~~of a license for licensure~~ as an addiction counselor, not to exceed \$150;
- (4) for a temporary license ~~as an addiction counselor~~, not to exceed \$100;
- (5) for application for licensure as a master's addiction counselor, not to exceed \$150;
- (6) for original licensure as a master's addiction counselor, not to exceed \$150;
- (7) for renewal for licensure as a master's addiction counselor, not to exceed \$150;
- (8) for application for licensure as a clinical addiction counselor, not to exceed \$150;
- ~~(6)~~ (9) for original licensure as a clinical addiction counselor, not to exceed \$150;
- ~~(7)~~ (10) for renewal for licensure as a clinical addiction counselor, not to exceed \$150;
- ~~(8)~~ (11) for a temporary permit to practice clinical addiction counseling, not to exceed \$200;
- ~~(9)~~ (12) for extension of a temporary permit to practice clinical addiction counseling, not to exceed \$200;
- ~~(10)~~ (13) for reinstatement of a license, not to exceed \$150;
- ~~(11)~~ (14) for replacement of a license, not to exceed \$20; ~~and~~
- ~~(12)~~ (15) for late renewal penalty, an amount equal to the fee for renewal; and
- (16) for a wallet license, not more than \$5.

(b) The board shall require that fees paid for any examination under the ~~addictions~~ addiction counselor licensure act be paid directly to the examination services by the person taking the examination.

(c) Fees paid to the board are not refundable.

Sec. 63. K.S.A. 2015 Supp. 65-6620 is hereby amended to read as follows: 65-6620. A licensee under the ~~addictions~~ addiction counselor licensure act, at the beginning of a client-therapist relationship, shall inform the client of the level of such licensee's training and the title or titles and license or licenses of such licensee. As a part of such obligation, such licensee shall disclose whether such licensee has a baccalaureate, master's degree or a doctoral degree. If such licensee has a doctoral degree, such licensee shall disclose whether or not such doctoral degree is a doctor of medicine degree or some other doctoral degree. If such licensee does not have a medical doctor's degree, such licensee shall disclose that the licensee is not authorized to practice medicine and surgery and is not authorized to prescribe drugs. As a part of such disclosure, such licensee shall advise the client that certain mental disorders can have medical or biological origins, and that the client should consult with a physician. Documentation of such disclosures to a client shall be made in the client's record.

Sec. 64. K.S.A. 2015 Supp. 74-5310 is hereby amended to read as follows: 74-5310. (a) The board shall issue a license as a psychologist to any person who pays an application fee prescribed by the board, if required by the board, not in excess of \$225 and, if required by the board, an original license fee not in excess of \$150, which shall

not be refunded, who either satisfies the board as to such person's training and experience after a thorough review of such person's credentials and who passes a satisfactory examination in psychology. Any person paying the fee must also submit evidence verified by oath and satisfactory to the board that such person:

- (1) Is at least 21 years of age;
- (2) is of good moral character;
- (3) has received the doctor's degree based on a program of studies in content primarily psychological from an educational institution having a graduate program with standards consistent with those of the state universities of Kansas, or the substantial equivalent of such program in both subject matter and extent of training; and
- (4) has had at least two years of supervised experience, a significant portion of which shall have been spent in rendering psychological services satisfying the board's approved standards for the psychological service concerned.

(b) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under ~~item (3)~~ of subsection (a)(3). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of ~~item (3)~~ of subsection (a)(3) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 65. K.S.A. 74-5311 is hereby amended to read as follows: 74-5311. ~~Examinations for applicants under this act shall be held by the board from time to time but not less than once each year.~~ The board shall adopt rules and regulations governing the subject, scope; and form of ~~the examinations for applicants under this act~~ or shall contract with a national testing service to provide an examination approved by the board. ~~The board shall prescribe an initial examination fee not to exceed \$350. If an applicant fails the first examination, such applicant may be admitted to any subsequent examination upon payment of an additional fee prescribed by the board not to exceed \$350. The examination fees prescribed by the board under this section shall be fixed by rules and regulations of the board.~~

Sec. 66. K.S.A. 2015 Supp. 74-5315 is hereby amended to read as follows: 74-5315. (a) The board may grant a license to any person who, at the time of application, is registered, certified or licensed as a psychologist at the doctoral level in another jurisdiction if the board determines that:

- (1) The requirements of such jurisdiction for such certification or licensure are substantially the equivalent of the requirements of this state; or
- (2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure as a psychologist at the doctoral level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

- (B) the absence of disciplinary actions of a serious nature brought by a registration,

certification or licensing board or agency; and

(C) a doctoral degree in psychology from a regionally accredited university or college.

(b) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 74-5310, and amendments thereto, if required by the board.

Sec. 67. K.S.A. 2015 Supp. 74-5316 is hereby amended to read as follows: 74-5316. (a) Upon application, the board may issue temporary licenses to persons who have met all qualifications for licensure under provisions of the licensure of psychologists act of the state of Kansas, except passage of the required examination, pursuant to K.S.A. 74-5310, and amendments thereto, who must wait for completion of the next examination, who have paid the required application, examination and temporary license fees and who have submitted documentation as required by the board, under the following:

(1) ~~The temporary license shall expire upon receipt and recording of the temporary licensee's second examination score by the board if such temporary licensee fails the examination after two attempts or upon the date the board issues or denies the temporary licensee a license to practice psychology if such temporary licensee passes the examination;~~

(2) ~~Such temporary licensee shall take the next license examination subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board;~~

(3) ~~the board shall adopt rules and regulations prescribing continuing education requirements for temporary licensees, including, but not limited to, a requirement that temporary licensees shall complete a minimum of 25 contact hours of continuing education during the two-year period of temporary licensure, which shall include a minimum of three hours in psychology ethics;~~

(4) ~~no person may work under a temporary license except under the supervision of a licensed psychologist as prescribed in rules and regulations adopted by the board; and~~

(5) ~~(4) the fee for such temporary license shall may be fixed by rules and regulations adopted by the board and shall not exceed \$200, and any such fee shall be established by rules and regulations adopted by the board.~~

(b) Upon application, the board may issue temporary licenses not to exceed two years to persons who have completed all requirements for a doctoral degree approved by the board but have not received such degree conferral or who have met all qualifications for licensure under provisions of such act, except completion of the postdoctoral supervised work experience pursuant to subsection (a)(4) of K.S.A. 74-5310(a)(4), and amendments thereto, who have paid the required application and temporary license fees and who have submitted documentation as required by the board, under the following:

(1) The temporary license shall expire at the end of the two-year period after issuance or if such temporary licensee is denied a license to practice psychology;

(2) the temporary license may be renewed for one additional two-year period after expiration;

(3) temporary licensees shall take the license examination pursuant to ~~subsection (a)(4) of K.S.A. 74-5310(a)(4), and amendments thereto, subsequent to the date of~~

issuance and prior to expiration of the temporary license unless there are extenuating circumstances approved by the board;

(4) temporary licensees shall be working toward the completion of the postdoctoral supervised work experience prescribed in ~~subsection (a)(4) of K.S.A. 74-5310(a)(4)~~, and amendments thereto;

(5) the board shall adopt rules and regulations prescribing continuing education requirements for temporary licensees, including, but not limited to, a requirement that temporary licensees shall complete a minimum of 25 contact hours of continuing education during the two-year period of temporary licensure, which shall include a minimum of three hours in psychology ethics;

(6) no temporary licensee may work under a temporary license except under the supervision of a licensed psychologist as prescribed in rules and regulations adopted by the board; and

(7) the fee for a renewal of the temporary license ~~shall may~~ be fixed ~~by rules and regulations adopted~~ by the board and shall not exceed \$200 per issuance, and any such fee shall be established by rules and regulations adopted by the board.

(c) A person practicing psychology with a temporary license may not use the title "licensed psychologist" or the initials "LP" independently. The word "licensed" may be used only when preceded by the word "temporary" such as temporary licensed psychologist, or the initials "TLP."

(d) This section shall be part of and supplemental to the provisions of article 53 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto.

(e) As used in this section, "temporary licensee" means any person practicing psychology with a temporary license pursuant to subsection (b) or (c) ~~of this section.~~

Sec. 68. K.S.A. 74-5318 is hereby amended to read as follows: 74-5318. ~~On or before the first day of April of alternate years, the board shall mail to every psychologist licensed in Kansas an application blank for renewal, which shall contain space for insertion of information as required for the application blank under K.S.A. 74-5317 and amendments thereto, addressing the same to the post office address given at the last previous renewal. In addition, The (a) An~~ application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed, during the previous 24 months, the continuing education required by rules and regulations of the board. As part of such continuing education, a licensed psychologist shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(b) A licensee shall submit the application to the board with a renewal fee fixed by rules and regulations of the board not to exceed \$200. Upon receipt of such application and fee, the board shall issue a renewal license for the period commencing on the date on which the license is issued and expiring on June 30 of the next even-numbered year. Initial licenses shall be for the current biennium of registration.

(c) Applications for renewal of a license shall be made biennially on or before July 1 and, if not so made, an additional fee equal to the renewal fee shall be added to the regular renewal fee.

(d) Any psychologist who has failed to renew a license and continues to represent oneself as a psychologist after July 1 shall be in violation of the licensure of psychologists act of the state of Kansas. The board may suspend or revoke such psychologist's license under the provisions of K.S.A. 74-5324, and amendments thereto.

(e) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 69. K.S.A. 2015 Supp. 74-5324 is hereby amended to read as follows: 74-5324. (a) The board may suspend, limit, revoke, condition or refuse to issue or renew a license of any psychologist upon proof that the psychologist: (a) Has been convicted of a felony involving moral turpitude; or (b) has been guilty of fraud or deceit in connection with services rendered as a psychologist or in establishing qualifications under this act; or (c) has aided or abetted a person, not a licensed psychologist, in representing such person as a psychologist in this state; or (d) has been guilty of unprofessional conduct as defined by rules and regulations established by the board; or (e) has been guilty of negligence or wrongful actions in the performance of duties; or (f) has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement or (g) refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for a license:

(1) Is incompetent to practice psychology, which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice psychology;

(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the licensure of psychologists act of the state of Kansas or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations of the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a registration, license or certificate as a psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of

the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the licensure of psychologists act of the state of Kansas shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the licensure of psychologists of the state of Kansas act shall be in accordance with the Kansas judicial review act.

Sec. 70. K.S.A. 74-5361 is hereby amended to read as follows: 74-5361. As used in this act:

(a) "Practice of psychology" shall have the meaning ascribed thereto in K.S.A. 74-5302 and amendments thereto.

(b) "Board" means the behavioral sciences regulatory board created by K.S.A. 74-7501 and amendments thereto.

(c) "~~Licensed-masters~~ master's level psychologist" means a person licensed by the board under the provisions of this act.

(d) "Licensed clinical psychotherapist" means a person licensed by the board under this act who engages in the independent practice of ~~masters~~ master's level psychology including the diagnosis and treatment of mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

(e) "~~Masters~~ Master's level psychology" means the practice of psychology pursuant to the restrictions set out in K.S.A. 74-5362, and amendments thereto, and includes the diagnosis and treatment of mental disorders as authorized under K.S.A. 74-5361 et seq., and amendments thereto.

Sec. 71. K.S.A. 74-5362 is hereby amended to read as follows: 74-5362. (a) Any person who is licensed under the provisions of this act as a licensed ~~masters~~ master's level psychologist shall have the right to practice psychology ~~only insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer,~~ so long as such practice is under the direction of a licensed clinical psychotherapist, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, a ~~licensed masters level psychologist~~ licensee under the licensure of master's level psychologists act shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed ~~masters~~ master's level psychologist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(b) A licensed ~~masters~~ master's level psychologist may use the title licensed ~~masters~~ master's level psychologist and the abbreviation LMLP but may not use the title licensed psychologist or psychologist. A licensed clinical psychotherapist may use the title licensed clinical psychotherapist and the abbreviation LCP but may not use the title licensed psychologist or psychologist.

Sec. 72. K.S.A. 74-5363 is hereby amended to read as follows: 74-5363. (a) Any person who desires to be licensed under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall license as a licensed ~~masters~~ master's level psychologist any applicant for licensure who pays the fee prescribed by the board under K.S.A. 74-5365, and amendments thereto, which shall not be refunded, who has satisfied the board as to such applicant's training and who complies with the provisions of this subsection ~~(b)~~. An applicant for licensure also shall submit evidence ~~verified under oath and~~ satisfactory to the board that such applicant:

- (1) Is at least 21 years of age;
- (2) has satisfied the board that the applicant is a person who merits public trust;
- (3) has received at least 60 graduate hours including a master's degree in psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas; or until July 1, 2003, has received at least a master's degree in psychology and during such master's or post-master's coursework completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; or has passed comprehensive examinations or equivalent final examinations in a doctoral program in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology;
- (4) has completed 750 clock hours of academically supervised practicum in the master's degree program or 1,500 clock hours of postgraduate supervised work experience;
- (5) has passed an examination approved by the board with a minimum score set by the board by rules and regulations ~~at 10 percentage points below the score set by the board for licensed psychologists.~~

(c) (1) Applications for licensure as a clinical psychotherapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

- (A) Is licensed by the board as a licensed ~~masters~~ master's level psychologist or meets all requirements for licensure as a ~~masters~~ master's level psychologist;
- (B) has completed 15 credit hours as part of or in addition to the requirements under subsection (b) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of ~~the following content areas:~~ Psychopathology, diagnostic

assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under ~~parts subparagraphs~~ (B) and (C) ~~of this subsection~~, has completed the education requirements for licensure as a licensed ~~masters~~ master's level psychologist in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary ~~permit license~~ to practice as a licensed ~~masters~~ master's level psychologist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under ~~parts subparagraphs~~ (B), (C) and (D) ~~of this subsection~~, has completed the education and training requirements for licensure as a ~~masters~~ master's level psychologist in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board with the same minimum passing score as that set by the board for licensed psychologists; and

(H) has paid the application fee, if required by the board.

(2) A person who was licensed or registered as a ~~masters~~ master's level psychologist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of ~~masters~~ master's level psychology as a registered or licensed ~~masters~~ master's level psychologist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical psychotherapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

(A) Either: (i) Graduate coursework; or (ii) passing a national, clinical examination;

(B) either: (i) Three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital; or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders;

or

(C) attestation from one professional licensed to diagnose and treat mental

disorders in independent practice or licensed to practice medicine and surgery that the applicant is competent to diagnose and treat mental disorders.

(3) A licensed clinical psychotherapist may engage in the independent practice of ~~masters~~ master's level psychology and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical psychotherapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical psychotherapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under ~~item (3)~~ of subsection (b)(3). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of ~~item (3)~~ of subsection (b)(3) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 73. K.S.A. 74-5365 is hereby amended to read as follows: 74-5365. (a) The application, issuance of a new license and renewal fee for licensure under this act shall following fees may be fixed by the board by rules and regulations in an amount not to exceed \$200; for licensure under the licensure of master's level psychologists act: For application, issuance of a new license and renewal of a license, an amount not to exceed \$200; for replacement of a license, an amount not to exceed \$20; and for a wallet card license, an amount not to exceed \$5. Any such fees required by the board shall be established by rules and regulations adopted by the board.

(b) Fees paid to the board are not refundable.

(c) The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed, during the previous 24 months, the continuing education required by rules and regulations of the board. As part of such continuing education, a licensed ~~masters~~ master's level psychologist and a licensed clinical psychotherapist shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 74. K.S.A. 2015 Supp. 74-5367 is hereby amended to read as follows: 74-5367. (a) The board may issue a temporary license to practice as a licensed ~~masters~~ master's level psychologist to any person who pays a fee prescribed by the board under this section, which shall not be refunded, and who meets all the requirements for licensure under K.S.A. 74-5361 et seq., and amendments thereto, as a licensed ~~masters~~

master's level psychologist except the requirement of postgraduate supervised work experience or passing the licensing examination, or both.

(b)~~(1)~~ Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies a license to practice ~~masters~~ master's level psychology or 24 months after the date of issuance of the temporary license. No temporary license issued by the board will be renewed or issued again on any subsequent applications for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

~~(2) A temporary licensee shall take the examination within the first 12 months subsequent to the issuance of the temporary license unless there are extenuating circumstances approved by the board or if the temporary licensee does not take the examination within the first 12 months subsequent to the issuance of the temporary license and no extenuating circumstances have been approved by the board, the temporary license will expire after the first 12 months.~~

(c) The board ~~shall~~ may fix by rules and regulations a fee for the application of the temporary license. The application fee shall not exceed \$100. Any such fee shall be established by rules and regulations adopted by the board.

(d) A person practicing ~~masters~~ master's level psychology with a temporary license may not use the title "licensed ~~masters~~ master's level psychologist" or the initials "LMLP" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed ~~masters~~ master's level psychologist by temporary license, or ~~masters~~ master's level psychologist licensed by temporary license.

(e) No person may work under a temporary license except under the supervision of a person licensed to practice psychology or ~~masters~~ master's level psychology in Kansas.

(f) The application for a temporary license may be denied or a temporary license which has been issued may be suspended or revoked on the same grounds as provided for suspension or revocation of a license under K.S.A. 74-5369, and amendments thereto.

(g) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

Sec. 75. K.S.A. 2015 Supp. 74-5369 is hereby amended to read as follows: 74-5369. ~~An application for licensure under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, may be denied or a license granted under this act may be suspended, limited, revoked, have a condition placed on it or not renewed by the board upon proof that the applicant or licensee:~~

- ~~(a) Has been convicted of a felony involving moral turpitude;~~
- ~~(b) has been found guilty of fraud or deceit in connection with the rendering of professional services or in establishing such person's qualifications under this act;~~
- ~~(c) has aided or abetted a person not licensed as a psychologist, licensed under this act or an uncertified assistant, to hold oneself out as a psychologist in this state;~~
- ~~(d) has been guilty of unprofessional conduct as defined by rules and regulations of~~

the board;

(e) ~~has been guilty of neglect or wrongful duties in the performance of duties; or~~
 (f) (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for licensure:

(1) Is incompetent to practice psychology, which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice master's level psychology;

(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the licensure of master's level psychologists act or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations of the board; or

(10) has had a registration, license or certificate as a ~~masters~~ master's level psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) ~~Administrative proceedings under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, and disciplinary actions regarding licensure under the licensure of master's level psychologists act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, the licensure of~~

master's level psychologists act shall be in accordance with the Kansas judicial review act.

Sec. 76. K.S.A. 74-5370 is hereby amended to read as follows: 74-5370. The board may adopt rules and regulations to administer the provisions of ~~K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto~~ the licensure of master's level psychologists act.

Sec. 77. K.S.A. 2015 Supp. 74-5375 is hereby amended to read as follows: 74-5375. (a) The behavioral sciences regulatory board may issue a license to an individual who is currently registered, certified or licensed to practice psychology at the ~~masters~~ master's level in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice psychology at the ~~masters~~ master's level in the other jurisdiction are substantially equivalent to the requirements of this state; or

(2) the applicant demonstrates, on forms provided by the board, compliance with the following standards adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice psychology at the ~~masters~~ master's level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) a ~~masters~~ master's degree in psychology from a regionally accredited university or college.

(b) Applicants for licensure as a clinical psychotherapist shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2) of subsection (a)(1) or (a)(2)~~ and at least two of the following areas acceptable to the board:

(1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 74-5365, and amendments thereto, if required by the board.

Sec. 78. K.S.A. 2015 Supp. 74-5376 is hereby amended to read as follows: 74-5376. K.S.A. 74-5361 through ~~74-5375, 74-5374 and K.S.A. 2015 Supp. 74-5375,~~ and amendments thereto, shall be known and may be cited as the licensure of ~~masters~~ master's level psychologists act.

Sec. 79. K.S.A. 2015 Supp. 74-7507 is hereby amended to read as follows: 74-7507. (a) The behavioral sciences regulatory board shall have the following powers, duties and functions:

(1) Recommend to the appropriate district or county attorneys prosecution for violations of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and~~

amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the ~~additions~~ addiction counselor licensure act;

(2) compile and publish annually a list of the names and addresses of all persons who are licensed under this act, are licensed under the licensure of psychologists act of the state of Kansas, ~~are licensed under the professional counselors licensure act, are licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, are licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, are licensed under the marriage and family therapists licensure act or ~~are licensed under the ~~additions~~ addiction counselor licensure act;~~

(3) prescribe the form and contents of examinations required under this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the ~~additions~~ addiction counselor licensure act;

(4) enter into contracts necessary to administer this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the ~~additions~~ addiction counselor licensure act;

(5) adopt an official seal;

(6) adopt and enforce rules and regulations for professional conduct of persons licensed under the licensure of psychologists act of the state of Kansas, ~~licensed under the professional counselors licensure act, licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, licensed under the marriage and family therapists licensure act or licensed under the ~~additions~~ addiction counselor licensure act;

(7) adopt and enforce rules and regulations establishing requirements for the continuing education of persons licensed under the licensure of psychologists act of the state of Kansas, ~~licensed under the professional counselors licensure act, licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, licensed under the marriage and family therapists licensure act or licensed under the ~~additions~~ addiction counselor licensure act;

(8) adopt rules and regulations establishing classes of social work specialties which will be recognized for licensure under K.S.A. 65-6301 to 65-6318, inclusive, and

amendments thereto;

(9) adopt rules and regulations establishing procedures for examination of candidates for licensure under the licensure of psychologists act of the state of Kansas, ~~for licensure under the professional counselors licensure act, for licensure under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, for licensure under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, ~~for licensure under the marriage and family therapists licensure act, for licensure under the addictions~~ addiction counselor licensure act and for issuance of such certificates and such licenses;

(10) adopt rules and regulations as may be necessary for the administration of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act and the ~~addictions~~ addiction counselor licensure act and to carry out the purposes thereof;

(11) appoint an executive director and other employees as provided in K.S.A. 74-7501, and amendments thereto; and

(12) exercise such other powers and perform such other functions and duties as may be prescribed by law.

(b) ~~The behavioral sciences regulatory board, in addition to any other penalty, may assess an administrative penalty, after notice and an opportunity to be heard, against a licensee or registrant for a violation of any of the provisions of the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto, the marriage and family therapists licensure act or the addictions counselor licensure act in an amount not to exceed \$1,000. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.~~

(c) ~~If an order of the behavioral sciences regulatory board is adverse to a licensee or registrant of the board, the actual costs shall be charged to such person as in ordinary civil actions in the district court in an amount not to exceed \$200. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed in accordance with statutes governing taxation of witness fees and costs in the district court.~~

Sec. 80. K.S.A. 2015 Supp. 74-7508 is hereby amended to read as follows: 74-7508. (a) In connection with any investigation, based upon a written complaint or other reasonably reliable written information, by the behavioral sciences regulatory board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic or office of a practitioner of the behavioral sciences, or other public or private agency if such

document, report, record or other physical evidence relates to practices which may be grounds for disciplinary action.

(b) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to administer oaths and take testimony. For the purpose of all investigations and proceedings conducted by the behavioral sciences regulatory board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents, reports, records or any other physical evidence if such documents, reports, records or other physical evidence relates to practices which may be grounds for disciplinary action. Within five days after the service of the subpoena on any person requiring the production of any documents, reports, records or other physical evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the documents, reports, records or other physical evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such documents, reports, records or other physical evidence.

(2) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce documents, reports, records or other physical evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced.

(3) (A) If the board determines that an individual has practiced without a valid license a profession regulated by the board for which the practitioners of the profession are required by law to be licensed in order to practice the profession, in addition to any other penalties imposed by law, the board, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against such individual.

(B) Whenever in the judgment of the behavioral sciences regulatory board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto, the licensure of psychologists act, the marriage and family therapists licensure act or the alcohol and other drug abuse counselor registration act, or any valid rule or regulation of the board, the board may make application to any court of competent jurisdiction for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

(c) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the behavioral sciences regulatory board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise authorized by law.

(d) Nothing in this section or any other provision of law making communications between a practitioner of one of the behavioral sciences and the practitioner's client or patient a privileged or confidential communication shall apply to investigations or proceedings conducted pursuant to this section. The behavioral sciences regulatory board and its employees, agents and representatives shall keep in confidence the content and the names of any clients or patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

(e) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to revoke the license or registration of any licensee or registrant who voluntarily surrenders such person's license or registration pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(f) In all matters pending before the behavioral sciences regulatory board, the board shall have the option to censure the licensee or registrant in lieu of other disciplinary action.

Sec. 81. K.S.A. 2015 Supp. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-29b50, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-29b73, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 22-2202, and amendments thereto.

(d) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of

addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under subsection (n).

(e) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed by the behavioral sciences regulatory board.

(f) "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

(g) "Other facility for care or treatment" means any mental health clinic, medical care facility, nursing home, the detox units at either Osawatomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

(e)(h) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to ~~subsection (b) or (e)~~ of K.S.A. 59-29b54 (b) or (c), and amendments thereto.

~~(f)~~ (i) "Person with an alcohol or substance abuse problem" means a person who: (1) Lacks self-control as to the use of alcoholic beverages or any substance as defined in ~~subsection (k)~~ (m); or

(2) uses alcoholic beverages or any substance ~~as defined in subsection (k)~~ to the extent that the person's health may be substantially impaired or endangered without treatment.

~~(g)~~ (j) (1) "Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment" means a person with an alcohol or substance abuse problem, ~~as defined in subsection (f)~~, who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

(2) "Incapacitated by alcohol or any substance" means that the person, as the result of the use of alcohol or any substance ~~as defined in subsection (k)~~, has impaired judgment resulting in the person:

(A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or communicate

responsible decisions concerning either the person's well-being or estate.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

(B) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

~~(h)~~ (k) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

~~(i)~~ (l) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

~~(j) "State certified alcohol and drug abuse counselor" means a person approved by the secretary for aging and disability services to perform assessments using the American Society of Addiction Medicine criteria and employed at a state funded and designated assessment center.~~

~~(k)~~ (m) "Substance" means: (1) The same as the term "controlled substance" as defined in K.S.A. 2015 Supp. 21-5701, and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

~~(l)~~ (n) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

~~(m)~~ (o) (1) "Treatment facility" means a treatment program, public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term shall not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 75-3307b, and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008, and amendments thereto, or a professional licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders at the independent level or a physician, who may treat in the usual course of the behavioral sciences regulatory board licensee's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not primarily engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

(2) "Private treatment facility" means a private agency providing facilities for the care and treatment or lodging of persons with either an alcohol or other substance abuse problem and meeting the standards prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto, and licensed under either K.S.A. 65-4014 or 65-4607, and

amendments thereto.

(3) "Public treatment facility" means a treatment facility owned and operated by any political subdivision of the state of Kansas and licensed under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an appropriate place for the care and treatment or lodging of persons with an alcohol or other substance abuse problem.

~~(#)~~ (p) The terms defined in K.S.A. 59-3051, and amendments thereto, shall have the meanings provided by that section.

Sec. 82. K.S.A. 59-29b54 is hereby amended to read as follows: 59-29b54. (a) A treatment facility may admit and detain any person for emergency observation and treatment upon an ex parte emergency custody order issued by a district court pursuant to K.S.A. 59-29b58, and amendments thereto.

(b) A treatment facility or the detox unit at Osawatomie state hospital or at Larned state hospital may admit and detain any person presented for emergency observation and treatment upon written application of a law enforcement officer having custody of that person pursuant to K.S.A. 59-29b53, and amendments thereto. The application shall state:

- (1) The name and address of the person sought to be admitted, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the officer's belief that the person is or may be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment and is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances in support of that belief and the factual circumstances under which the person was taken into custody including any known pending criminal charges; and
- (5) the fact that the law enforcement officer will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, by the close of business of the first day thereafter that the district court is open for the transaction of business, or that the officer has been informed by a parent, legal guardian or other person, whose name shall be stated in the application will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, within that time.

(c) A treatment facility may admit and detain any person presented for emergency observation and treatment upon the written application of any individual. The application shall state:

- (1) The name and address of the person sought to be admitted, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the applicant's belief that the person may be a person with an alcohol or substance abuse problem subject to involuntary commitment and is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances in support of that belief;
- (5) any pending criminal charges, if known;
- (6) the fact that the applicant will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, by the close of business of the first day thereafter that the district court is open for the transaction of business; and
- (7) the application shall also be accompanied by a statement in writing of a physician, psychologist or ~~state certified alcohol and drug abuse~~ licensed addiction counselor finding that the person is likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act.

(d) Any treatment facility or personnel thereof, who in good faith renders treatment in accordance with law to any person admitted pursuant to subsection (b) or (c), shall not be liable in a civil or criminal action based upon a claim that the treatment was rendered without legal consent.

Sec. 83. K.S.A. 59-29b61 is hereby amended to read as follows: 59-29b61. (a) The order for an evaluation required by ~~subsection (a)(5) of K.S.A. 59-29b60(a)(5), and amendments thereto, shall be served in the manner provided for in subsections (c) and (d) of K.S.A. 59-29b63(c) and (d), and amendments thereto.~~ It shall order the proposed patient to submit to an evaluation to be conducted by a physician, psychologist or ~~state certified alcohol and drug abuse~~ licensed addiction counselor and to undergo such other medical examinations or evaluations as may be designated by the court in the order, except that any proposed patient who is not subject to a temporary custody order issued pursuant to K.S.A. 59-29b59, and amendments thereto, and who requests a hearing pursuant to K.S.A. 59-29b62, and amendments thereto, need not submit to such evaluations or examinations until that hearing has been held and the court finds that there is probable cause to believe that the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act. The evaluation may be conducted at a treatment facility, the home of the proposed patient or any other suitable place that the court determines is not likely to have a harmful effect on the welfare of the proposed patient.

(b) At the time designated by the court in the order, but in no event later than three days prior to the date of the trial provided for in K.S.A. 59-29b65, and amendments thereto, the examiner shall submit to the court a report, in writing, of the evaluation which report also shall be made available to counsel for the parties at least three days prior to the trial. The report also shall be made available to the proposed patient and to whomever the patient directs, unless for good cause recited in the order, the court orders otherwise. Such report shall state that the examiner has made an examination of the proposed patient and shall state the opinion of the examiner on the issue of whether or not the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act and the examiner's opinion as to the least restrictive treatment alternative which will protect the proposed patient and others and allow for the improvement of the proposed patient if treatment is ordered.

Sec. 84. K.S.A. 2015 Supp. 59-3077 is hereby amended to read as follows: 59-3077. (a) At any time after the filing of the petition provided for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, any person may file in addition to that original petition, or as a part thereof, or at any time after the appointment of a temporary guardian as provided for in K.S.A. 59-3073, and amendments thereto, or a guardian as provided for in K.S.A. 59-3067, and amendments thereto, the temporary guardian or guardian may file, a verified petition requesting that the court grant authority to the temporary guardian or guardian to admit the proposed ward or ward to a treatment facility, as defined in subsection (h), and to consent to the care and treatment of the proposed ward or ward therein. The petition shall include:

(1) The petitioner's name and address, and if the petitioner is the proposed ward's or ward's court appointed temporary guardian or guardian, that fact;

(2) the proposed ward's or ward's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or

ward's permanent residence;

(3) the name and address of the proposed ward's or ward's court appointed temporary guardian or guardian, if different from the petitioner;

(4) the factual basis upon which the petitioner alleges the need for the proposed ward or ward to be admitted to and treated at a treatment facility, or for the proposed ward or ward to continue to be treated at the treatment facility to which the proposed ward or ward has already been admitted, or for the guardian to have continuing authority to admit the ward for care and treatment at a treatment facility pursuant to ~~subsection (b)(3) of K.S.A. 59-2949;~~(b)(3) of K.S.A. 59-29b49~~(b)(3) of K.S.A. 59-29b49~~(b)(3), and amendments thereto;

(5) the names and addresses of witnesses by whom the truth of this petition may be proved; and

(6) a request that the court find that the proposed ward or ward is in need of being admitted to and treated at a treatment facility, and that the court grant to the temporary guardian or guardian the authority to admit the proposed ward or ward to a treatment facility and to consent to the care and treatment of the proposed ward or ward therein.

(b) The petition may be accompanied by a report of an examination and evaluation of the proposed ward or ward conducted by an appropriately qualified professional, which shows that the criteria set out in K.S.A. 39-1803, ~~subsection (e) of K.S.A. 59-2946~~(e) of K.S.A. 59-29b46~~(f) of K.S.A. 59-29b46~~(i) of K.S.A. 59-29b46 or K.S.A. 76-12b03, and amendments thereto, are met.

(c) Upon the filing of such a petition, the court shall issue the following:

(1) An order fixing the date, time and place of a hearing on the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than seven days or later than 21 days after the date of the filing of the petition. The court may consolidate this hearing with the trial upon the original petition filed pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, or with the trial provided for in the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, if the petition also incorporates the allegations required by, and is filed in compliance with, the provisions of either of those acts.

(2) An order requiring that the proposed ward or ward appear at the time and place of the hearing on the petition unless the court makes a finding prior to the hearing that the presence of the proposed ward or ward will be injurious to the person's health or welfare, or that the proposed ward's or ward's impairment is such that the person could not meaningfully participate in the proceedings, or that the proposed ward or ward has filed with the court a written waiver of such ward's right to appear in person. In any such case, the court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed ward or ward at the hearing should be excused. Notwithstanding the foregoing provisions of this subsection, if the proposed ward or ward files with the court at least one day prior to the date of the hearing a written notice stating the person's desire to be present at the hearing, the court shall order that the person must be present at the hearing.

(3) An order appointing an attorney to represent the proposed ward or ward. The court shall give preference, in the appointment of this attorney, to any attorney who has represented the proposed ward or ward in other matters, if the court has knowledge of

that prior representation. The proposed ward, or the ward with the consent of the ward's conservator, if one has been appointed, shall have the right to engage an attorney of the proposed ward's or ward's choice and, in such case, the attorney appointed by the court shall be relieved of all duties by the court. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order.

(4) An order fixing the date, time and a place that is in the best interest of the proposed ward or ward, at which the proposed ward or ward shall have the opportunity to consult with such ward's attorney. This consultation shall be scheduled to occur prior to the time at which the examination and evaluation ordered pursuant to subsection (d) (1), if ordered, is scheduled to occur.

(5) A notice similar to that provided for in K.S.A. 59-3066, and amendments thereto.

(d) Upon the filing of such a petition, the court may issue the following:

(1) An order for a psychological or other examination and evaluation of the proposed ward or ward, as may be specified by the court. The court may order the proposed ward or ward to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the proposed ward or ward. The costs of this examination and evaluation shall be assessed as provided for in K.S.A. 59-3094, and amendments thereto.

(2) If the petition is accompanied by a report of an examination and evaluation of the proposed ward or ward as provided for in subsection (b), an order granting temporary authority to the temporary guardian or guardian to admit the proposed ward or ward to a treatment facility and to consent to the care and treatment of the proposed ward or ward therein. Any such order shall expire immediately after the hearing upon the petition, or as the court may otherwise specify, or upon the discharge of the proposed ward or ward by the head of the treatment facility, if the proposed ward or ward is discharged prior to the time at which the order would otherwise expire.

(3) For good cause shown, an order of continuance of the hearing.

(4) For good cause shown, an order of advancement of the hearing.

(5) For good cause shown, an order changing the place of the hearing.

(e) The hearing on the petition shall be held at the time and place specified in the court's order issued pursuant to subsection (c), unless an order of advancement, continuance, or a change of place of the hearing has been issued pursuant to subsection (d). The petitioner and the proposed ward or ward shall each be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. If the hearing has been consolidated with a trial being held pursuant to either the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, persons not necessary for the conduct of the proceedings may be excluded as provided for in those acts. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has examined or evaluated the proposed ward or

ward pursuant to any order issued by the court pursuant to subsection (d). Such evidence shall not be privileged for the purpose of this hearing.

(f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the criteria set out in K.S.A. 39-1803, ~~subsection (e) of K.S.A. 59-2946(e), subsection (f) of K.S.A. 59-29b46(i)~~ or K.S.A. 76-12b03, and amendments thereto, are met, and after a careful consideration of reasonable alternatives to admission of the proposed ward or ward to a treatment facility, the court may enter an order granting such authority to the temporary guardian or guardian as is appropriate, including continuing authority to the guardian to readmit the ward to an appropriate treatment facility as may later become necessary. Any such grant of continuing authority shall expire two years after the date of final discharge of the ward from such a treatment facility if the ward has not had to be readmitted to a treatment facility during that two-year period of time. Thereafter, any such grant of continuing authority may be renewed only after the filing of another petition seeking authority in compliance with the provision of this section.

(g) Nothing herein shall be construed so as to prohibit the head of a treatment facility from admitting a proposed ward or ward to that facility as a voluntary patient if the head of the treatment facility is satisfied that the proposed ward or ward at that time has the capacity to understand such ward's illness and need for treatment, and to consent to such ward's admission and treatment. Upon any such admission, the head of the treatment facility shall give notice to the temporary guardian or guardian as soon as possible of the ward's admission, and shall provide to the temporary guardian or guardian copies of any consents the proposed ward or ward has given. Thereafter, the temporary guardian or guardian shall timely either seek to obtain proper authority pursuant to this section to admit the proposed ward or ward to a treatment facility and to consent to further care and treatment, or shall otherwise assume responsibility for the care of the proposed ward or ward, consistent with the authority of the temporary guardian or guardian, and may arrange for the discharge from the facility of the proposed ward or ward, unless the head of the treatment facility shall file a petition requesting the involuntary commitment of the proposed ward or ward to that or some other facility.

(h) As used herein, "treatment facility" means the Kansas neurological institute, Larned state hospital, Osawatomie state hospital, Parsons state hospital and training center, the rainbow mental health facility, any intermediate care facility for people with intellectual disability, any psychiatric hospital licensed pursuant to K.S.A. 75-3307b, and amendments thereto, and any other facility for mentally ill persons or people with intellectual or developmental disabilities licensed pursuant to K.S.A. 75-3307b, and amendments thereto, if the proposed ward or ward is to be admitted as an inpatient or resident of that facility.

Sec. 85. K.S.A. 65-4016 is hereby amended to read as follows: 65-4016. The secretary shall adopt rules and regulations with respect to treatment facilities to be licensed and designed to further the accomplishment of the purposes of this law in promoting a safe and adequate treatment program for individuals in treatment facilities in the interest of public health, safety and welfare ~~including, but not limited to, minimum qualifications for employees of licensed or certified programs which are less than the qualifications required for a registered alcohol and other drug abuse counselor.~~ Boards of trustees or directors of institutions licensed under this act shall have the right

to select the professional staff members of such institutions and to select and employ interns, nurses and other personnel.

Sec. 86. K.S.A. 2015 Supp. 65-4024a is hereby amended to read as follows: 65-4024a. As used in this act:

- (a) "Act" means the alcohol or other drug addiction treatment act.
- (b) "Alcohol or other drug addiction" means a pattern of substance use, leading to significant impairment or distress, manifested by three or more of the following occurring at any time in the same 12-month period:
 - (1) Tolerance, defined as: (A) A need for markedly increased amounts of the substance to achieve intoxication or desired effect; or (B) a markedly diminished effect with continued use of the same amount of substance;
 - (2) withdrawal, as manifested by either of the following: (A) The characteristic withdrawal syndrome for the substance; or (B) the same or a closely related substance is taken to relieve or avoid withdrawal symptoms;
 - (3) the substance is often taken in larger amounts or over a longer period than was intended;
 - (4) there is a persistent desire or unsuccessful efforts to cut down or control substance use;
 - (5) a great deal of time is spent in activities necessary to obtain the substance, use the substance or recover from its effects;
 - (6) important social, occupational or recreational activities are given up or reduced because of substance use;
 - (7) the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.
- (c) "Care or treatment" means such necessary services as are in the best interests of the physical and mental health of the patient.
- (d) "Committee" means the Kansas citizens committee on alcohol and other drug abuse.
- (e) ~~"Counselor" means an individual whose education, experience and training has been evaluated and approved by the Kansas department for aging and disability services to provide the scope of practice afforded to an alcohol and drug credentialed counselor or counselor assistant working in a licensed, certified alcohol and drug treatment program.~~
- (~~f~~)—"Department" means the Kansas department for aging and disability services.
- (~~g~~)(f) "Designated state funded assessment center" or "assessment center" means a treatment facility designated by the secretary.
- (~~h~~)(g) "Discharge" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.
- (~~i~~)(h) "Government unit" means any county, municipality or other political subdivision of the state; or any department, division, board or other agency of any of the foregoing.
- (~~j~~)(i) "Head of the treatment facility" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.
- (~~k~~)(j) "Incapacitated by alcohol" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.
- (~~l~~)(k) "Intoxicated individual" means an individual who is under the influence of

alcohol or drugs or both.

~~(m)(l)~~ "Law enforcement officer" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(m)~~ "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under K.S.A. 59-29b46(n), and amendments thereto.

~~(n)~~ "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed by the behavioral sciences regulatory board.

~~(o)~~ "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

~~(p)~~ "Patient" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(q)~~ "Private treatment facility" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(r)~~ "Public treatment facility" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(s)~~ "Treatment" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(t)~~ "Treatment facility" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

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

New Sec. 87. This act shall be known and may be cited as the interstate medical licensure compact.

INTERSTATE MEDICAL LICENSURE compact

SECTION 1

PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise

change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

SECTION 2 DEFINITIONS

In this compact:

(a) "Bylaws" means those bylaws established by the interstate commission pursuant to section 11 for its governance, or for directing and controlling its actions and conduct.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to section 11.

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(e) "Interstate commission" means the interstate commission created pursuant to section 11.

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government.

(i) "Member state" means a state that has enacted the compact.

(j) "Practice of medicine" means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(k) "Physician" means any person who:

(1) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation or a medical school listed in the international medical education directory or its equivalent;

(2) passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(3) successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;

(4) holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's

bureau of osteopathic specialists;

(5) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(6) has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(7) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

(8) has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(9) is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor or crime of moral turpitude.

(m) "Rule" means a written statement by the interstate commission promulgated pursuant to section 12 of the compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal or suspension of an existing rule.

(n) "State" means any state, commonwealth, district or territory of the United States.

(o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

SECTION 3 ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in section 2(k) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4 DESIGNATION OF STATE OF PRINCIPAL LICENSE

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- (1) The state of primary residence for the physician;
- (2) the state where at least 25% of the practice of medicine occurs;
- (3) the location of the physician's employer; or
- (4) if no state qualifies under subsection (a)(1), subsection (a)(2) or subsection (a)(3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any

time, as long as the state meets the requirements in subsection (a).

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5 APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202.

(3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6
FEES FOR EXPEDITED LICENSURE

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7
RENEWAL AND CONTINUED PARTICIPATION

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

(1) Maintains a full and unrestricted license in a state of principal license;

(2) has not been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(3) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and

(4) has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

SECTION 8
COORDINATED INFORMATION SYSTEM

(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any non-public complaint, disciplinary or investigatory information not required by subsection (c) to the interstate commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member

boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9 JOINT INVESTIGATIONS

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10 DISCIPLINARY ACTIONS

(a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct, which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(1) Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or

(2) pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day

suspension period in a manner consistent with the medical practice act of that state.

SECTION 11
INTERSTATE MEDICAL LICENSURE
compact COMMISSION

(a) The member states hereby create the interstate medical licensure compact commission.

(b) The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be:

- (1) An allopathic or osteopathic physician appointed to a member board;
- (2) an executive director, executive secretary or similar executive of a member board; or
- (3) a member of the public appointed to a member board.

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

- (1) Relate solely to the internal personnel practices and procedures of the interstate commission;
- (2) discuss matters specifically exempted from disclosure by federal statute;
- (3) discuss trade secrets, commercial or financial information that is privileged or confidential;

- (4) involve accusing a person of a crime, or formally censuring a person;
 - (5) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (6) discuss investigative records compiled for law enforcement purposes; or
 - (7) specifically relate to the participation in a civil action or other legal proceeding.
- (i) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.
- (j) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.
- (k) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.
- (l) The interstate commission may establish other committees for governance and administration of the compact.

SECTION 12
POWERS AND DUTIES OF
THE interstate commission

The interstate commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the compact;
- (b) promulgate rules which shall be binding to the extent and in the manner provided for in the compact;
- (c) issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;
- (d) enforce compliance with compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (e) establish and appoint committees including, but not limited to, an executive committee as required by section 11, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;
- (f) pay, or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;
- (g) establish and maintain one or more offices;
- (h) borrow, accept, hire or contract for services of personnel;
- (i) purchase and maintain insurance and bonds;
- (j) employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants, and to determine their qualifications, define their duties and fix their compensation;
- (k) establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

(l) accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

(m) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed;

(n) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(o) establish a budget and make expenditures;

(p) adopt a seal and bylaws governing the management and operation of the interstate commission;

(q) report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

(r) coordinate education, training and public awareness regarding the compact, its implementation and its operation;

(s) maintain records in accordance with the bylaws;

(t) seek and obtain trademarks, copyrights and patents; and

(u) perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

SECTION 13 FINANCE POWERS

(a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

SECTION 14 ORGANIZATION AND OPERATION OF THE interstate commission

(a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall

have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(c) Officers selected in subsection (b) shall serve without remuneration from the interstate commission.

(d) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

SECTION 15
RULEMAKING FUNCTIONS OF
THE interstate commission

(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the

foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "model state administrative procedure act" of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

SECTION 16 OVERSIGHT OF INTERSTATE compact

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law, but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact, which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

SECTION 17 ENFORCEMENT OF INTERSTATE compact

(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18 DEFAULT PROCEDURES

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:

(1) provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(2) provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state, which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

SECTION 19 DISPUTE RESOLUTION

(a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20
MEMBER STATES, EFFECTIVE
DATE AND AMENDMENT

- (a) Any state is eligible to become a member state of the compact.
- (b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.
- (c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.
- (d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21
WITHDRAWAL

- (a) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
- (b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.
- (c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.
- (d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (c).
- (e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.
- (f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.
- (g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

SECTION 22
DISSOLUTION

(a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state, which reduces the membership in the compact to one member state.

(b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23
SEVERABILITY AND CONSTRUCTION

(a) The provisions of the compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of the compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

SECTION 24
BINDING EFFECT OF compact
AND OTHER LAWS

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

New Sec. 88. The provisions of sections 88 through 96, and amendments thereto, shall be known and may be cited as the independent practice of midwifery act.

New Sec. 89. As used in the independent practice of midwifery act:

(a) "Board" means the state board of healing arts.

(b) "Certified nurse-midwife" means an individual who:

(1) Is educated in the two disciplines of nursing and midwifery;

(2) is currently certified by a certifying board approved by the state board of nursing; and

(3) is currently licensed under the Kansas nurse practice act.

(c) "Independent practice of midwifery" means the provision of clinical services by a certified nurse-midwife without the requirement of a collaborative practice agreement with a person licensed to practice medicine and surgery when such clinical services are

limited to those associated with a normal, uncomplicated pregnancy and delivery, including:

- (1) The prescription of drugs and diagnostic tests;
- (2) the performance of episiotomy or repair of a minor vaginal laceration;
- (3) the initial care of the normal newborn; and
- (4) family planning services, including treatment or referral of male partners for sexually-transmitted infections.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 90. (a) In order to obtain authorization to engage in the independent practice of midwifery, a certified nurse-midwife must meet the following requirements:

- (1) Be licensed to practice professional nursing under the Kansas nurse practice act;
- (2) have successfully completed a course of study in nurse-midwifery in a school of nurse-midwifery approved by the board;
- (3) have successfully completed a national certification approved by the board;
- (4) have successfully completed a refresher course as defined by rules and regulations of the board, if the individual has not been in active midwifery practice for five years immediately preceding the application;

(5) be authorized to perform the duties of a certified nurse-midwife by the state board of nursing;

(6) be licensed as an advanced practice registered nurse by the state board of nursing; and

(7) have paid all fees for licensure prescribed in section 92, and amendments thereto.

(b) Upon application to the board by any certified nurse-midwife and upon satisfaction of the standards and requirements established under this act, the board shall grant an authorization to the applicant to engage in the independent practice of midwifery.

(c) A person whose licensure has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which application shall be accompanied by the fee prescribed in section 92, and amendments thereto.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 91. (a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board, unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the fee prescribed in section 92, and amendments thereto.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration, by mail, addressed to the licensee's last known mailing address. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, the renewal fee, and the late renewal fee are received by the board within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(c) The board may require any licensee, as a condition of renewal, to submit with the application of renewal evidence of satisfactory completion of a program of

continuing education as required by rules and regulations of the board.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 92. (a) The board shall charge and collect, in advance, fees for certified nurse-midwives, as established by the board, not to exceed:

Application for license	\$100
License renewal	\$100
Late license renewal	\$100
License reinstatement fee	\$100
Revoked license fee	\$100
Certified copy of license	\$50
Verified copy of license	\$25

(b) The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such amount shall be credited to the state general fund, and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or persons designated by the president.

(c) The provisions of this section shall become effective on January 1, 2017.

New Sec. 93. (a) It shall be unlawful for a person to engage in the independent practice of midwifery without a collaborative practice agreement with a person licensed to practice medicine and surgery, unless such certified nurse-midwife holds a license from the state board of nursing and the board.

(b) The provisions of this section shall become effective on January 1, 2017.

New Sec. 94. (a) The board, in consultation with the state board of nursing, shall adopt rules and regulations pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests, diagnostic services and prescribing of drugs and referral or transfer to physicians in the event of complications or emergencies. Such rules and regulations shall not be adopted until the state board of nursing and the board have consulted and concurred on the content of each rule and regulation. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) A certified nurse midwife engaging in the independent practice of midwifery shall be subject to the provisions of the independent practice of midwifery act with respect to the ordering of tests, diagnostic services and prescribing of drugs, and shall not be subject to the provisions of K.S.A. 65-1130, and amendments thereto.

(c) The standards of care for certified nurse-midwives in the ordering of tests, diagnostic services and the prescribing of drugs shall be those standards which protect patients and shall be standards comparable to persons licensed to practice medicine and surgery providing the same services.

(d) The board is hereby authorized to solely adopt those rules and regulations necessary to administer the administrative provisions of this act.

New Sec. 95. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2015 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto; or

(C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 2015 Supp. 21-5903, and amendments thereto.

(c) As used in this section, "professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

(d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.

(e) The provisions of this section shall become effective on January 1, 2017.

New Sec. 96. (a) There is hereby established a nurse-midwives council to advise the board in carrying out the provisions of this act. The council shall consist of seven members, all residents of the state of Kansas appointed as follows: Two members shall be licensees of the board, appointed by the board, who are licensed to practice medicine and surgery and whose specialty and customary practice includes obstetrics; one member shall be the president of the board or a board member designated by the president; and four members shall be licensed certified nurse-midwives appointed by the board of nursing.

(b) If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

Sec. 97. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1130 is hereby amended to read as follows: (a) No professional nurse shall announce or represent to the public that such person is an advanced practice registered nurse unless such professional nurse has complied with requirements established by the board and holds a valid license as an advanced practice registered nurse in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain licensure as an advanced practice registered nurse. Such standards

and requirements shall include, but not be limited to, standards and requirements relating to the education of advanced practice registered nurses. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced practice registered nurses which:

(1) Establish roles and identify titles and abbreviations of advanced practice registered nurses which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education and qualifications necessary for licensure for each role of advanced practice registered nurse established by the board at a level adequate to assure the competent performance by advanced practice registered nurses of functions and procedures which advanced practice registered nurses are authorized to perform. Advanced practice registered nursing is based on knowledge and skills acquired in basic nursing education, licensure as a registered nurse and graduation from or completion of a master's or higher degree in one of the advanced practice registered nurse roles approved by the board of nursing.

(3) Define the role of advanced practice registered nurses and establish limitations and restrictions on such role. The board shall adopt a definition of the role under this ~~subsection (c)(3)~~ paragraph which is consistent with the education and qualifications required to obtain a license as an advanced practice registered nurse, which protects the public from persons performing functions and procedures as advanced practice registered nurses for which they lack adequate education and qualifications and which authorizes advanced practice registered nurses to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such role the board shall consider: (A) The education required for a licensure as an advanced practice registered nurse; (B) the type of nursing practice and preparation in specialized advanced practice skills involved in each role of advanced practice registered nurse established by the board; (C) the scope and limitations of advanced practice nursing prescribed by national advanced practice organizations; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education in nursing.

(d) An advanced practice registered nurse may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced practice registered nurse is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced practice registered nurse. Any written prescription order shall include the name, address and telephone number of the responsible physician. The advanced practice registered nurse may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by a responsible physician. In order to prescribe controlled substances, the advanced practice registered nurse shall (1) register with the federal drug enforcement administration; and (2) notify the board of the name and address of the responsible physician or physicians. In no case shall the scope of authority of the advanced practice registered nurse exceed the normal and customary practice of the responsible physician. An advanced practice

registered nurse certified in the role of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 ~~to through~~ 65-1164, ~~inclusive~~; and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 ~~to through~~ 65-1164, ~~inclusive~~; and amendments thereto, with respect to drugs and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery in Kansas who has accepted responsibility for the protocol and the actions of the advanced practice registered nurse when prescribing drugs.

(e) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(f) A person registered to practice as an advanced registered nurse practitioner in the state of Kansas immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced practice registered nurse under this act and such person shall not be required to file an original application for licensure under this act. Any application for registration filed which has not been granted prior to the effective date of this act shall be processed as an application for licensure under this act.

(g) An advanced practice registered nurse certified in the role of certified nurse-midwife and engaging in the independent practice of midwifery under the independent practice of midwifery act with respect to prescribing drugs shall be subject to the provisions of the independent practice of midwifery act and shall not be subject to the provisions of this section.

Sec. 98. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner;

(2) the patient or research subject at the direction and in the presence of the practitioner; or

(3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(e) "Board" means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(f) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed.

(g) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(h) "Chain pharmacy warehouse" means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

(i) "Co-licensee" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

(j) "DEA" means the U.S. department of justice, drug enforcement administration.

(k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(l) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(m) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(n) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication, or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto.

(o) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(p) "Distributor" means a person who distributes a drug.

(q) "Drop shipment" means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel."

(r) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official

national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in ~~man~~ human or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of ~~man~~ human or other animals; and (4) articles intended for use as a component of any articles specified in paragraph (1), (2) or (3) ~~of this subsection~~; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(s) "Durable medical equipment" means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; or (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(t) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(u) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(v) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(w) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(x) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(y) "Exclusive distributor" means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

(z) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a

written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(aa) "Generic name" means the established chemical name or official name of a drug or drug product.

(bb) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(cc) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(dd) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

(ee) "Medical care facility" shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct

supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(gg) "Manufacturer" means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

(hh) "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs ~~prior to January 11, 2016, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016,~~ pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(ii) "Normal distribution channel" means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer's co-licensed partner, from that manufacturer to that manufacturer's third-party logistics provider or from that manufacturer to that manufacturer's exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(jj) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(kk) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

(ll) "Pharmacist-in-charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(mm) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

(nn) "Pharmacy," "drugstore" or "apothecary" means premises, laboratory, area or

other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(oo) "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers or servers, and is controlled by the pharmacy.

(pp) "Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(qq) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(rr) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(ss) "Prescriber" means a practitioner or a mid-level practitioner.

(tt) "Prescription" or "prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber's professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form.

(uu) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(vv) "Prescription-only drug" means any drug whether intended for use by ~~man~~ human or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ww) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(xx) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of

pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

(yy) "Readily retrievable" means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(zz) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

(aaa) "Secretary" means the executive secretary of the board.

(bbb) "Third party logistics provider" means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(ccc) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ddd) "Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to

exceed two years.

(eee) "Valid prescription order" means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

(fff) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

(ggg) "Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers' and distributors' warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

(hhh) "Wholesale distribution" means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include:

(1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;

(2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;

(3) intracompany transactions, as defined in this section, unless in violation of own use provisions;

(4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;

(5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;

(7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement;

(8) the sale, purchase or trade of blood and blood components intended for transfusion;

(9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;

(10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;

(11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;

(12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or

(13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 99. On and after January 1, 2017, K.S.A. 2015 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner; or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Board" means the state board of pharmacy.

(e) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(g) (1) "Controlled substance analog" means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in

K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(i) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) "DEA" means the U.S. department of justice, drug enforcement administration.

(k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(l) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(m) "Dispenser" means a practitioner or pharmacist who dispenses, or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto.

(n) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(o) "Distributor" means a person who distributes.

(p) "Drug" means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in ~~man~~ human or animals; (3) substances (other than food) intended to affect the structure or any function of the body of ~~man~~ human or animals; and (4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3) ~~of this subsection~~. It does not include devices or their components, parts or accessories.

(q) "Immediate precursor" means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers

and servers where access and records are controlled by the prescriber.

(t) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(u) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(v) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(x) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(aa) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(bb) "Medical care facility" shall have the meaning ascribed to that term in K.S.A.

65-425, and amendments thereto.

(cc) "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs ~~prior to January 11, 2016, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016,~~ pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.

(gg) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) "Pharmacist" means any natural person licensed under K.S.A. 65-1625 et seq., and amendments thereto, to practice pharmacy.

(ii) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person's internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers and servers, and is controlled by the pharmacy.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) "Prescriber" means a practitioner or a mid-level practitioner.

(nn) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) "Readily retrievable" means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(pp) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.";

Also on page 11, in line 30, after the first "K.S.A." by inserting "59-29b54, 59-29b61, 65-4016, 65-5806, 65-5808, 65-6314, 65-6407, 65-6408, 65-6411, 74-5311, 74-5318, 74-5319, 74-5320, 74-5321, 74-5325, 74-5326, 74-5327, 74-5328, 74-5332, 74-5333, 74-5334, 74-5336, 74-5338, 74-5361, 74-5362, 74-5363, 74-5365, 74-5370, 75-6115 and"; also in line 30, after "Supp." by inserting "59-29b46, 59-3077,"; in line 31, before "and" by inserting ", 65-2872, 65-2901, 65-2913, 65-4024a, 65-5807, 65-5809, 65-5815, 65-6309, 65-6311, 65-6313, 65-6405, 65-6406, 65-6412, 65-6607, 65-6608, 65-6609, 65-6610, 65-6611, 65-6612, 65-6613, 65-6614, 65-6615, 65-6616, 65-6617, 65-6618, 65-6619, 65-6620, 74-5310, 74-5315, 74-5316, 74-5324, 74-5337, 74-5367, 74-5369, 74-5375, 74-5376, 74-7507, 74-7508";

Also on page 11, following line 31, by inserting:

"Sec. 101. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1130, 65-1626 and 65-4101 are hereby repealed.";

And by renumbering sections accordingly;

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

"AN ACT concerning healthcare providers; relating to powers, duties and functions thereof; licensure requirements; regulation; acupuncturists; certified nurse-midwives; physical therapists; professions regulated by the behavioral science regulatory board; amending K.S.A. 59-29b54, 59-29b61, 65-4016, 65-5806, 65-5808, 65-6314, 65-6407, 65-6408, 65-6411, 74-5311, 74-5318, 74-5362, 74-5363, 74-5365, 74-5370, 75-6115 and 75-6120 and K.S.A. 2015 Supp. 59-29b46, 59-3077, 65-1130, 65-1431, 65-1626, 65-2809, 65-2872, 65-2901, 65-2913, 65-4024a, 65-4101, 65-5807, 65-5809, 65-6309, 65-6311, 65-6313, 65-6405, 65-6406, 65-6607, 65-6608, 65-6609, 65-6610, 65-6611, 65-6612, 65-6613, 65-6614, 65-6615, 65-6616, 65-6617, 65-6618, 65-6620, 74-5310, 74-5315, 74-5316, 74-5324, 74-5367, 74-5369, 74-5375, 74-5376, 74-7507, 74-7508 and 75-6102 and repealing the existing sections; also repealing K.S.A. 74-5319, 74-5320, 74-5321, 74-5325, 74-5326, 74-5327, 74-5328, 74-5332, 74-5333, 74-5334, 74-5336 and 74-5338 and K.S.A. 2015 Supp. 65-5815, 65-6412, 65-6619 and 74-5337.";

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

MICHAEL O'DONNELL
 ELAINE BOWERS
 LAURA KELLY

Conferees on part of Senate

DANIEL HAWKINS
 WILLIE DOVE
 JIM WARD

Conferees on part of House

Senator O'Donnell moved to adopt the conference committee report on **HB 2615**.

Senator Pilcher-Cook offered a substitute motion to not adopt the conference committee report on **HB 2615** and appoint a fourth conference. The motion prevailed.

The President appointed Senators O'Donnell, Bowers and Kelly as fourth conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 149** 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 as House Substitute for Senate Bill No. 149, as follows:

On page 3, following line 36, by inserting:

"Sec. 4. K.S.A. 2015 Supp. 12-6a31 is hereby amended to read as follows: 12-6a31.

(a) In addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, any municipality may impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act, and amendments thereto, within a community improvement district for purposes of financing a project in such district in any increment of 0.10% or 0.25% not to exceed 2% and pledging the revenue received therefrom to pay the bonds issued for the project or to reimburse the cost of the project pursuant to pay-as-you-go financing. In the event bonds are issued to finance a project or refunding bonds issued therefore, the community improvement district sales tax imposed pursuant to this section shall expire no later than the date such bonds shall mature. In the event pay-as-you-go financing is utilized, the community improvement district sales tax shall expire 22 years from the date the state director of taxation begins collecting such tax or when the project bonds or pay-as-you-go costs have been paid. Except as otherwise provided by the provisions of K.S.A. 2015 Supp. 12-6a27 et seq., and amendments thereto, the tax authorized by this section shall be administered, collected and subject to the provisions of K.S.A. 12-187 through 12-197, ~~inclusive~~, and amendments thereto.

(b) Upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the community improvement district sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected in the district at the same time and in the same manner provided for the collection of the state retailers' sales tax. All of

the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, and the state treasurer shall credit 2% of all taxes so collected to the community improvement district sales tax administration fund, which fund is hereby established in the state treasury, to defray the expenses of the department of revenue in administration and enforcement of the collection thereof. The aggregate amount of moneys credited to the community improvement district sales tax administration fund shall not exceed ~~\$60,000~~ \$200,000 in any state fiscal year. The remainder of such taxes shall be credited to the community improvement district sales tax fund, which fund is hereby established in the state treasury. All moneys in the community improvement district sales tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the treasurers of those municipalities which are qualified to receive disbursements from such fund for the amount collected within such municipality. Any refund due on any community improvement district sales tax collected pursuant to this section shall be paid out of the community improvement district sales tax refund fund which is hereby established in the state treasury and reimbursed by the director of taxation from collections of the community improvement district sales tax authorized by this section. Community improvement district sales tax received by a municipality pursuant to this section shall be deposited in the community improvement district sales tax fund created pursuant to K.S.A. 2015 Supp. 12-6a34, and amendments thereto.

(c) Notwithstanding any other provisions of law to the contrary, copies of all retailers' sales and use tax returns filed with the secretary of revenue in connection with a district for which sales or use tax revenues, or both, are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance costs of a project, shall be provided by the secretary of revenue to the bond trustee, escrow agent or paying agent for such bonds upon a written request of the municipality within 15 days of receipt by the secretary of revenue. The bond trustee, escrow agent or paying agent shall keep such retailers' sales and use tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such sales and use tax revenues in connection with the bonds used to finance costs of a project. Except as otherwise provided herein, the sales and use tax returns received by the bond trustee, escrow agent or paying agent shall be subject to the provisions of K.S.A. 79-3614, and amendments thereto.

Sec. 5. K.S.A. 2015 Supp. 79-3399 is hereby amended to read as follows: 79-3399. (a) On and after ~~July 1, 2016~~ January 1, 2017, a tax is hereby imposed upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of \$.20 per milliliter of consumable material for electronic cigarettes and a proportionate tax at the like rate on all fractional parts thereof. For electronic cigarettes in the possession of retail dealers for which tax has not been paid, tax shall be imposed under this subsection at the earliest time the retail dealer: (1) Brings or causes to be brought into this state from without the state electronic cigarettes for sale; (2) makes, manufactures or fabricates electronic cigarettes in this state for sale in this state; or (3) sells electronic cigarettes to consumers within this state.

(b) The secretary of revenue shall adopt rules and regulations to implement the

provisions of this section.

Sec. 6. K.S.A. 2015 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes and electronic cigarettes as defined by K.S.A. 79-3301, and amendments thereto, including consumable material for such electronic cigarettes, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business; or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt

from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon

conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by

K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of drugs used in the performance or induction of an abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by K.S.A. 74-5807(c), and

amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2015 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm machinery and equipment" includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. "Precision farming equipment" includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing

meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b, *Second through Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by K.S.A. 79-4216(k), and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased prior to January 1, 2012, except as otherwise provided, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115, and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in

conjunction with constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114, and amendments thereto. Project exemption certificates that have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012, and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall

not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based facility for people with intellectual disability or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto, and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based facility for people with intellectual disability or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production

operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any

warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the

fabricator shall also sign the exemption certificate; (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E); (F) all machinery and equipment used in surface mining activities as described in K.S.A. 49-601 et seq., and amendments thereto, beginning from the time a reclamation plan is filed to the acceptance of the completed final site reclamation.

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purposes at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(II) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such materials purchased by a nonprofit corporation which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property purchased by a nonprofit organization which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American heart association, Kansas affiliate, inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas alliance for the mentally ill, inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas mental illness awareness council for the purposes of advocacy for persons who are mentally ill and for education, research and support for them and their

families;

(4) the American diabetes association Kansas affiliate, inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American lung association of Kansas, inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's disease and related disorders association, inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the national kidney foundation of Kansas and western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the cystic fibrosis foundation, heart of America chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the dreams work, inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(17) the dream factory, inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki strings, inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the international association of lions clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation;

(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;

(21) the American cancer society, inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need;

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies; and

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

(ww) all sales of tangible personal property purchased by the habitat for humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or

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

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or

the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property and services purchased by a primary care clinic or health center which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate

to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or

processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas academy of science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax

otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac center, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the west Sedgwick county-sunrise rotary club and sunrise charitable fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf

of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library

for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq),

which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or

remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by jazz in the woods, inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing jazz in the woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac education foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased

directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining,

repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers;

(cccc) all sales of tangible personal property or services purchased by or on behalf

of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased by or on behalf of goodwill industries or Easter seals of Kansas, inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;

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

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or intellectual disability, or both, and all sales of any such property by or on behalf of sheltered living, inc., for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc., for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc., contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc., a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of

the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc., shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(gggg) all sales of game birds for which the primary purpose is use in hunting;

(hhhh) all sales of tangible personal property or services purchased on or after July 1, 2014, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business identified under the North American industry classification system (NAICS) subsectors 1123, 1124, 112112, 112120 or 112210, and the sale and installation of machinery and equipment purchased for installation at any such business. The exemption provided in this subsection shall not apply to projects that have actual total costs less than \$50,000. When a person contracts for the construction, reconstruction, enlargement or remodeling of any such business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to the owner of the business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor of the contractor, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(iiii) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for Wichita children's home for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by Wichita children's home. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for Wichita children's home. When Wichita children's home contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute

invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to Wichita children's home a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, Wichita children's home shall be liable for the tax on all materials purchased for the project, and upon payment, it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(jjjj) all sales of tangible personal property or services purchased by or on behalf of the beacon, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing those desiring help with food, shelter, clothing and other necessities of life during times of special need; ~~and~~

(kkkk) all sales of tangible personal property and services purchased by or on behalf of reaching out from within, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of sponsoring self-help programs for incarcerated persons that will enable such incarcerated persons to become role models for non-violence while in correctional facilities and productive family members and citizens upon return to the community; and

(llll) all sales of tangible personal property and services purchased by Gove county healthcare endowment foundation, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of constructing and equipping an airport in Quinter, Kansas, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing and equipping an airport in Quinter, Kansas, for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing or equipping of facilities for such organization. When such organization shall contract for the purpose of constructing or equipping an airport in Quinter, Kansas, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and

such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation no later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. The provisions of this subsection shall expire and have no effect on and after July 1, 2019.

Sec. 7. K.S.A. 79-3606d is hereby amended to read as follows: 79-3606d. (a) The following shall be exempt from the tax imposed by the Kansas retailers' sales tax act: All sales of tangible personal property and services purchased during calendar year ~~1996~~ 2016, necessary to construct, reconstruct, repair or replace any fence which was damaged or destroyed by fire occurring during calendar year ~~1996~~ 2016, and the purpose for which is to enclose land devoted to agricultural use. Sales tax paid on and after January 1, ~~1996~~ 2016, but prior to the effective date of this act upon the gross receipts received from any such sale shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee.

(b) The provisions of this section shall be deemed to be supplemental to the Kansas retailers' sales tax act.;

Also on page 3, in line 37, after "K.S.A." by inserting "79-3606d and K.S.A."; also in line 37, after "Supp." by inserting "12-6a31,"; also in line 37, by striking "is" and inserting ", 79-3399 and 79-3606 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking the first "income tax" and inserting "taxation"; in line 3, after the semicolon by inserting "community improvement district sales tax administration fund; electronic cigarettes; sales tax exemptions, Gove county healthcare endowment foundation, inc., certain sales of tangible personal property purchased to rebuild or repair certain fences,"; also in line 3, after "K.S.A." by inserting "79-3606d and K.S.A."; also in line 3, after "Supp." by inserting "12-6a31,"; also in line

3, after "74-8133" by inserting ", 79-3399 and 79-3606"; in line 4, by striking "section" and inserting "sections";

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

MARVIN KLEEB

GENE SUELLENTROP

TOM SAWYER

Conferees on part of House

LES DONOVAN

CARYN TYSON

TOM HOLLAND

Conferees on part of Senate

Senator Donovan moved the Senate adopt the Conference Committee Report on **H Sub SB 149**.

On roll call, the vote was: Yeas 35; Nays 5; Present and Passing 0; Absent or Not Voting 0.

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

Nays: Baumgardner, Knox, Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 193** submits the following report:

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

On page 1, by striking all in lines 5 through 36;

On page 2, by striking all in lines 1 through 39; following line 39, by inserting:

"Section 1. K.S.A. 2015 Supp. 72-89d02 is hereby amended to read as follows: 72-89d02. As used in K.S.A. 2015 Supp. 72-89d01 through 72-89d07, and amendments thereto:

(a) "Appointing authority" means a group of persons empowered by statute to make human resource decisions that affect the employment of officers.

(b) "Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto.

(c) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

(d) "Commissioner" means the commissioner of education.

(e) "Complaint" means a written document that a parent files with a local board as provided for in this act.

(~~a~~)-(f) "Department" means the state department of education.

~~(b)~~-(g) "Emergency safety intervention" means the use of seclusion or physical restraint, but does not include the use of time-out.

(h) "Hearing officer" means the state department employee designated to conduct an administrative review.

(i) "Incident" means each occurrence of the use of an emergency safety intervention.

(j) "Law enforcement officer" and "police officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic law of this state or any Kansas municipality. This term includes a campus police officer.

(k) "Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.

(l) "Local board" means the board of education of a district or the governing body of any accredited nonpublic school.

(m) "Mechanical restraint" means any device or object used to limit a student's movement.

~~(e)~~-(n) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a person acting as a parent as defined in K.S.A. 72-1046(d)(2), and amendments thereto; (4) a legal guardian; (5) an education advocate for a student with an exceptionality; (6) a foster parent, unless the student is a child with an exceptionality; or (7) a student who has reached the age of majority or is an emancipated minor.

(o) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder or back of a student who is acting out for the purpose of inducing the student to walk to a safe location. Physical escort shall not be considered an emergency safety intervention.

~~(d)~~-(p) "Physical restraint" means bodily force used to substantially limit a student's movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint.

~~(e)~~-(q) "School" means any learning environment, including any nonprofit institutional day or residential school or accredited nonpublic school, that receives public funding or which is subject to the regulatory authority of the state board of education.

(r) "School resource officer" means a law enforcement officer or police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.

(s) "School security officer" means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a law enforcement officer or police officer.

~~(f)~~-(t) "Seclusion" means placement of a student in a location where all the following conditions are met:

- (1) The student is placed in an enclosed area by school personnel;
- (2) the student is purposefully isolated from adults and peers; and
- (3) the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

(u) "State board" means the Kansas state board of education.

(v) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.

Sec. 2. K.S.A. 2015 Supp. 72-89d03 is hereby amended to read as follows: 72-89d03. (a) Emergency safety interventions shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety interventions. The use of an emergency safety intervention shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

(b) A student shall not be subjected to ~~seclusion~~ an emergency safety intervention if the student is known to have a medical condition that could put the student in mental or physical danger as a result of ~~seclusion~~ the emergency safety intervention. The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file. Such written statement shall include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions. Notwithstanding the provisions of this subsection, a student may be subjected to an emergency safety intervention, if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

(c) When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.

(d) All seclusion rooms equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

(e) A seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Such room shall be free of any condition that could be a danger to the student, and shall be well-ventilated and sufficiently lighted.

(f) The following types of restraint shall be prohibited:

(1) Prone, or face-down, physical restraint; supine, or face-up physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;

(2) chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue such treatments; and

(3) mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a certified law enforcement officer in carrying out law enforcement duties, seatbelts and any other safety equipment when used to secure

students during transportation.

(g) Each local board shall develop and implement written policies to govern the use of emergency safety interventions in schools. At a minimum, written district policies shall conform to the standards, definitions and requirements of this act.

Such written policies shall include that:

(1) (A) School personnel training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for the use of emergency safety interventions;

(B) training shall address prevention techniques, de-escalation techniques and positive behavioral intervention strategies;

(C) training shall be consistent with nationally recognized training programs; and

(D) schools shall maintain written or electronic documentation on training provided and lists of participants in each training for inspection by the Kansas state board of education;

(2) a local dispute resolution process shall be developed, which shall include the following:

(A) A procedure for a parent to file a complaint with the local board. If a parent believes that an emergency safety intervention has been used on the parent's child in violation of the act, rules and regulations or the local board's emergency safety intervention policy, the parent may file a complaint within 30 days of the date on which the parent was informed of the use of the emergency safety intervention;

(B) a procedure for complaint investigation;

(C) a procedure to implement a dispute-resolution final decision. The local board's decision shall be in writing and shall include findings of fact and any corrective action required by the school if the local board deems such action necessary. The local board's final decision shall be mailed to the parent and the department within 30 days of the the local board's receipt of the complaint; and

(D) a procedure setting out the parent's right to request an administrative review by the state board, including information as to the deadline by which the parent must submit the request to the state board;

(3) a system for the collection and maintenance of documentation for each use of an emergency safety intervention as set forth in K.S.A. 2015 Supp. 72-89d04, and amendments thereto;

(4) a procedure for the periodic review of the use of emergency safety interventions at each school, which shall be compiled and submitted at least biannually to the superintendent or the superintendent's designee; and

(5) a schedule for when and how parents are provided with notice of the local board's written policies on the use of emergency safety interventions.

(h) Written policies developed pursuant to this act shall be accessible on each school's website and shall be included in each school's code of conduct, school safety plan or student handbook.

(i) (1) Campus police officers and school resource officers shall be exempt from the requirements of this act when engaged in an activity that has a legitimate law enforcement purpose.

(2) School security officers shall not be exempt from the requirements of this act.

Sec. 3. K.S.A. 2015 Supp. 72-89d04 is hereby amended to read as follows: 72-89d04. (a) (1) When a student is subjected to an emergency safety intervention, the

school shall notify the parent, or if a parent cannot be notified, then shall notify an emergency contact person for such student, on the same day the emergency safety intervention was used. If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day. Written documentation of the use of an emergency safety interventions used intervention shall be completed and provided to the parent no later than the school day following the day on which the emergency safety intervention was used. Such written documentation shall include: (A) The events leading up to the incident; (B) student behaviors that necessitated the emergency safety intervention; (C) steps taken to transition the student back into the educational setting; (D) the date and time the incident occurred, the type of emergency safety intervention used, the duration of the emergency safety intervention and the school personnel who used or supervised the emergency safety intervention; (E) space or an additional form for parents to provide feedback or comments to the school regarding the incident; (F) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and (G) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting. Schools may group incidents together when documenting the items in subparagraphs (A), (B) and (C) if the triggering issue necessitating the emergency safety interventions is the same.

(2) The parent shall be provided the following information after the first incident in which an emergency safety intervention is used during the school year, and may be provided such information after each subsequent incident that occurs during the school year:-(1) (A) A copy of the standards of when emergency safety interventions can be used;-(2) (B) a flyer on the parent's rights;-(3) (C) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and-(4) (D) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system. Upon the first occurrence of an incident involving the use of emergency safety interventions, the parent shall be provided the foregoing information in printed form, and or, upon the parent's written request, by email. Upon the occurrence of a second or subsequent incident, the parent shall be provided with a full and direct website address containing such information.

(b) If a parent believes emergency safety interventions have been used in violation of this act, rules and regulations adopted pursuant thereto or policies of the school district, then within 30 days from being informed of the use of emergency safety intervention, such parent may file a complaint through the local dispute resolution process. A parent may file a complaint under the state board of education complaint process within 30 days from the date a final decision is issued pursuant to the local dispute resolution process. If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student, the school shall notify the parent the same day using the parent's preferred method of contact. A school shall not be required to provide written documentation to a

parent, as set forth in subsection (a)(1) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

(c) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department website, and to the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The data governance board of the department shall use the actual data value when providing statewide aggregate data for such reports. The department's reported results shall include, but shall not be limited to, the following information:

(1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;

(2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;

(3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;

(4) the total number of incidents in which emergency safety interventions were used on students;

(5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;

(6) the number of students physically restrained;

(7) the number of students placed in seclusion;

(8) the maximum and median number of minutes a student was placed in seclusion;

(9) the maximum number of incidents in which emergency safety interventions were used on a student;

(10) the information reported under subsection (c)(1) through (c)(3) ~~reported by the~~ school to the extent possible;

(11) the information reported under subsections (c)(1) through (c)(9) aggregated by ~~age and~~ ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and

(12) such other information as the department deems necessary to report.

Sec. 4. K.S.A. 2015 Supp. 72-89d05 is hereby amended to read as follows: 72-89d05. (a) ~~If there is a third incident involving the use of emergency safety interventions within a school year on~~ After each incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such meeting verbally, in writing or by electronic means. A school shall hold a meeting requested under this subsection within 10 school days of the parent's request. The focus of any meeting convened under this subsection shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

(1) ~~For a student who has an individualized education program or a section 504 plan, then such student's individualized education program team or section 504 plan team shall meet within 10 days after such third incident to discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan or amend either if already in existence, unless the individualized education program team or the section 504 plan team has agreed on a different process.~~

For a student with a section 504 plan, such student's section 504 plan team shall discuss and consider the need for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto. For students who have an individualized education program and are placed in a private school by a parent, a meeting called under this subsection shall include the parent and the private school, who shall consider whether the parent should request an individualized education program team meeting. If the parent requests an individualized education program team meeting, the private school shall help facilitate such meeting.

~~(b) If there is a third incident involving the use of emergency safety interventions within a school year on a student who is not described in subsection (a), then a meeting between such student's parent and school employees shall be conducted within 10 days after such third incident to-~~

(2) For a student who does not have an individualized education program or section 504 plan, the parent and school shall discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto, the need for a functional behavioral analysis or the need for a behavior intervention plan. Any meeting called pursuant to this subsection shall include the student's parent, a school administrator for the school where the student attends, one of the student's teachers, a school employee involved in the incident and such other school employees designated by the school administrator as appropriate for such meeting.

~~(e)-(b) The parent shall determine whether~~ the student shall be invited to any meeting called pursuant to this section.

~~(d)-(c) The time for calling a meeting pursuant to this section shall be extended beyond the 10-day 10-school-day~~ limit if the parent of the student is unable to attend within that time period.

~~(e)-(d) Nothing in this section shall be construed to prohibit the development and implementation of a functional behavioral analysis or a behavior intervention plan for any student if such student may benefit from such measures but has had less than three incidents involving emergency safety interventions within a school year.~~

Sec. 5. K.S.A. 2015 Supp. 72-89d08 is hereby amended to read as follows: 72-89d08. The provisions of K.S.A. 2015 Supp. 72-89d01 through 72-89d08, and amendments thereto, shall expire on June 30, ~~2018~~ 2020.

Sec. 6. K.S.A. 2015 Supp. 72-89d02, 72-89d03, 72-89d04, 72-89d05 and 72-89d08 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the period and inserting "schools; relating to standards and requirements for the treatment of students; seclusion and restraint of students; amending K.S.A. 2015 Supp. 72-89d02, 72-89d03, 72-89d04, 72-89d05 and 72-89d08 and repealing the existing sections";

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

CONNIE O'BRIEN

WILLIE DOVE

JARROD OUSLEY

Conferees on part of House

STEVE ABRAMS

TOM ARPKE

ANTHONY HENSLEY

Conferees on part of Senate

Senator Abrams moved the Senate adopt the Conference Committee Report on **H Sub SB 193**.

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

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

Nays: Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 325** submits the following report:

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

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

On page 2, by striking all in lines 1 through 29 and inserting:

"Section 1. K.S.A. 2015 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638 and 21-4642, prior to their repeal; K.S.A. 2015 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2015 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A. 2015 Supp. 21-6617, and amendments thereto, shall not be eligible for parole.

(2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in ~~subsection (a)(2) of~~ K.S.A. 2015 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(3) Except as provided by subsections (b)(1), (b)(2) and (b)(5), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2015 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(5) An inmate sentenced to imprisonment for a violation of ~~subsection (a) of~~ K.S.A. 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

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

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 2015 Supp. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

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

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months on postrelease supervision.

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to ~~subsection (d)(1)(D)(vii) of K.S.A. 22-3717(d)(1)(D)(vii)~~, and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2015 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2015 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(i) If the sentencing judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 2015 Supp. 21-6820, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

- (a) Written briefs or oral arguments submitted by either the defendant or the state;
- (b) any evidence received during the proceeding;
- (c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to ~~subsection (e) of K.S.A. 21-4714(e)~~, prior to its repeal, or ~~subsection (e) of K.S.A. 2015 Supp. 21-6813(e)~~, and amendments thereto; and
- (d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2015 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2015 Supp. 21-6604, and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

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

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2015 Supp. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

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

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

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

(2) Persons serving a period of postrelease supervision pursuant to subsections (d) (1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner review board for early discharge. Upon payment of restitution, the prisoner review board may provide for early discharge.

(3) Persons serving a period of incarceration for a supervision violation shall not have the period of postrelease supervision modified until such person is released and returned to postrelease supervision.

(4) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction is revoked pursuant to ~~subsection (e) of K.S.A. 22-3716(c)~~, and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to ~~subsection (e)(1)(C) or (e)(1)(D) of K.S.A. 22-3716(c)(1)(C) or (c)(1)(D)~~, and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(5) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or ~~subsection (a) of K.S.A. 2015 Supp. 21-5506(a)~~, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5506(b)~~, and amendments thereto;

(D) criminal sodomy, ~~subsection (a)(2) and (a)(3) of K.S.A. 21-3505(a)(2) and (a)(3)~~, prior to its repeal, or ~~subsection (a)(3) and (a)(4) of K.S.A. 2015 Supp. 21-5504(a)(3) and (a)(4)~~, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5504(b)~~, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or

~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5508(a), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5508(b), and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5505(b), and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5604(b), and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(L) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto; or

(M) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

(6) As used in this subsection, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner review board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or

to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are

insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to ~~search or seizure~~ searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to ~~search or seizure~~ searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(l) The prisoner review board shall promulgate rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto,

unless the board finds compelling circumstances which would render payment unworkable;

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services;

(6) shall order that the parolee or person on postrelease supervision agree in writing to be subject to ~~search or seizure~~ searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment; and

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to ~~search or seizure~~ searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall

be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to July 1, 2014, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section:

(1) On or before September 1, 2013, for offenders convicted of:

(A) Severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity level 4 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) severity level 5 crimes on the sentencing guidelines grid for drug crimes committed on and after July 1, 2012;

(2) on or before November 1, 2013, for offenders convicted of:

(A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes;

(B) level 3 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) level 4 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012; and

(3) on or before January 1, 2014, for offenders convicted of:

(A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and

(C) severity level 3 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to ~~subsection (r)~~ of K.S.A. 2015 Supp. 21-6604(r), and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) (1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

(A) As used in this subsection, "pornographic materials" means: any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

(B) As used in this subsection, all other terms have the meanings provided by

K.S.A. 2015 Supp. 21-5510, and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. 22-4902, and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

Sec. 2. K.S.A. 2015 Supp. 22-3717 is hereby repealed.";

On page 1, in the title, in line 1, by striking all after concerning; by striking all in line 2; in line 3, by striking all before the period and inserting "crimes, punishment and criminal procedure; relating to conditions of parole and postrelease supervision; search and seizure; amending K.S.A. 2015 Supp. 22-3717 and repealing the existing section";

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

RAMON GONZALEZ

JAN PAULS

DENNIS HIGHBERGER

Conferees on part of House

GREG SMITH

FORREST KNOX

PAT PETTEY

Conferees on part of Senate

Senator Smith moved the Senate adopt the Conference Committee Report on **SB 325**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

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

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to SB 418 submits the following report:

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

On page 1, following line 7, by inserting:

"New Section 1. Sections 1 through 5, and amendments thereto, shall be known and may be cited as the host families act.

New Sec. 2. As used in the host families act:

(a) "Charitable organization" has the same meaning as defined in K.S.A. 17-1760, and amendments thereto.

(b) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care and licensed by the state of Kansas pursuant to K.S.A. 65-501, and amendments thereto.

(c) "Host family" means an individual or family who provides temporary care under this act.

(d) "Parent," when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(e) "Serving parent" means a parent who is a member of the reserves of the army, navy, air force, marine corps or coast guard of the United States or the commissioned corps of the national oceanic and atmospheric administration or the public health service of the United States department of health and human services detailed by proper authority for duty with the army or navy of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the president of the United States or to serve on state active duty.

New Sec. 3. (a) A child placement agency, or other Kansas charitable organization working under an agreement with a child placement agency, may establish a program in which it coordinates with private organizations to provide temporary care of children by placing a child with a host family.

(b) (1) A program established pursuant to subsection (a) shall include screening and background checks for potential host families. Such screening and background checks shall be the same as the screening and background checks required for obtaining and maintaining a license to operate a family foster home pursuant to rules and regulations adopted by the secretary for children and families.

(2) A host family shall not receive payment other than reimbursement for actual expenses of providing temporary care for the child.

(c) Any placement of a child into a program established pursuant to subsection (a):

(1) Shall be voluntary and shall not be considered an out-of-home placement by the state;

(2) shall not supersede any order under the revised Kansas code for care of children or any other court order; and

(3) shall not preclude any investigation of suspected abuse or neglect.

(d) (1) A parent may place a child into a program established pursuant to subsection (a) by executing a power of attorney delegating to a host family any of the powers regarding the care and custody of the child, except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. Such placement of a child shall not be allowed without the consent of all individuals who have legal custody of the child.

(2) (A) A power of attorney executed pursuant to this subsection shall not exceed one year in duration, except that such power of attorney may be renewed for one additional year.

(B) A serving parent may execute a power of attorney pursuant to this section for a duration longer than one year if on active duty service, and the duration of such power of attorney shall not exceed the term of active duty service plus 30 days.

(3) A delegation of powers pursuant to this subsection shall not: (A) Deprive any parent of any parental or legal authority regarding the care and custody of the child; (B) deprive any non-delegating parent of any parental or legal authority regarding the child, if such parent's rights have not otherwise been terminated or relinquished as provided by law; or (C) affect any parental or legal authority otherwise limited by a court order.

(4) A parent executing a power of attorney pursuant to this subsection shall have the authority to revoke or withdraw the power of attorney at any time. If a parent withdraws or revokes the power of attorney, the child shall be returned to the custody of the parent as soon as reasonably possible.

(5) The execution of a power of attorney by a parent pursuant to this subsection shall not be evidence of abandonment, abuse or neglect as defined in K.S.A. 2015 Supp. 38-2202, and amendments thereto.

(6) A power of attorney executed pursuant to this subsection shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council. The judicial council shall develop a form for use under this subsection.

New Sec. 4. During any child protective investigation by the Kansas department for children and families that does not result in an out-of-home placement due to abuse of a child, the department is authorized and encouraged to provide information to the parent or custodian about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis, including organizations that operate programs authorized under section 3, and amendments thereto. In providing information, the department is authorized to exercise its discretion in recommending programs, organizations and resources to the parent or custodian.

New Sec. 5. The Kansas department for children and families is hereby authorized to work with families who are in financial distress, unemployed, homeless or experiencing other family crises by detailing community resources available to such families in the community, including, but not limited to, respite care, voluntary guardianship under the host families act and information regarding child placement agencies and other charitable organizations that operate programs authorized under section 3, and amendments thereto.";

Also, on page 1, following line 24, by inserting:

"Sec. 7. K.S.A. 2015 Supp. 23-3203 is hereby amended to read as follows: 23-3203. (a) In determining the issue of ~~child legal~~ custody, residency and parenting time of a child, the court shall consider all relevant factors, including, but not limited to:

~~(a)~~ (1) Each parent's role and involvement with the minor child before and after separation;

~~(b)~~ (2) the desires of the child's parents as to custody or residency;

~~(c)~~ (3) the desires of a child of sufficient age and maturity as to the child's custody or residency;

~~(d)~~ (4) the age of the child;

~~(e)~~ (5) the emotional and physical needs of the child;

~~(f)~~ (6) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;

~~(g)~~ (7) the child's adjustment to the child's home, school and community;

~~(h)~~ (8) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent;

- ~~(9)~~ (9) evidence of spousal abuse, either emotional or physical;
- ~~(10)~~ (10) the ability of the parties to communicate, cooperate and manage parental duties;
- ~~(11)~~ (11) the school activity schedule of the child;
- ~~(12)~~ (12) the work schedule of the parties;
- ~~(13)~~ (13) the location of the parties' residences and places of employment;
- ~~(14)~~ (14) the location of the child's school;
- ~~(15)~~ (15) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law;
- ~~(16)~~ (16) whether a parent has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2015 Supp. 21-5602, and amendments thereto;
- ~~(17)~~ (17) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law; and
- ~~(18)~~ (18) whether a parent is residing with an individual who has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2015 Supp. 21-5602, and amendments thereto.

(b) To aid in determining the issue of legal custody, residency and parenting time of a child, the court may order a parent to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and may order such parent to follow all recommendations made by such program.

Sec. 8. K.S.A. 2015 Supp. 38-2201 is hereby amended to read as follows: 38-2201. K.S.A. 2015 Supp. 38-2201 through 38-2283, and amendments thereto, shall be known as and may be cited as the revised Kansas code for care of children.

(a) Proceedings pursuant to this code shall be civil in nature and all proceedings, orders, judgments and decrees shall be deemed to be pursuant to the parental power of the state. Any orders pursuant to this code shall take precedence over any similar order under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, until jurisdiction under this code is terminated.

(b) The code shall be liberally construed to carry out the policies of the state which are to:

(1) Consider the safety and welfare of a child to be paramount in all proceedings under the code;

(2) provide that each child who comes within the provisions of the code shall receive the care, custody, guidance control and discipline that will best serve the child's welfare and the interests of the state, preferably in the child's home and recognizing that the child's relationship with such child's family is important to the child's well being;

(3) make the ongoing physical, mental and emotional needs of the child decisive considerations in proceedings under this code;

(4) acknowledge that the time perception of a child differs from that of an adult and to dispose of all proceedings under this code without unnecessary delay;

(5) encourage the reporting of suspected child abuse and neglect;

(6) investigate reports of suspected child abuse and neglect thoroughly and promptly;

(7) provide for the protection of children who have been subject to physical, mental or emotional abuse or neglect or sexual abuse;

(8) provide preventative and rehabilitative services, when appropriate, to abused and neglected children and their families so, if possible, the families can remain together without further threat to the children;

(9) provide stability in the life of a child who must be removed from the home of a parent; and

(10) place children in permanent family settings, in absence of compelling reasons to the contrary.

(c) Nothing in this code shall be construed to permit discrimination on the basis of disability.

(1) The disability of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the disability and harm to the child.

(2) In cases involving a parent with a disability, determinations made under this code shall consider the availability and use of accommodations for the disability, including adaptive equipment and support services.

(d) (1) Nothing in this code shall be construed to permit any person to compel a parent to medicate a child if the parent is acting in accordance with medical advice from a physician. The actions of a parent in such circumstances shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the actions and harm to the child.

(2) As used in this subsection, "physician" means a person licensed to practice medicine and surgery by the state board of healing arts or by an equivalent licensing board or entity in any state."

On page 7, following line 28, by inserting:

"Sec. 11. K.S.A. 2015 Supp. 38-2211 is hereby amended to read as follows: 38-2211. (a) *Access to the official file.* The following persons or entities shall have access to the official file of a child in need of care proceeding pursuant to this code:

(1) The court having jurisdiction over the proceedings, including the presiding judge and any court personnel designated by the judge.

(2) The parties to the proceedings and their attorneys.

(3) The guardian ad litem for a child who is the subject of the proceeding.

(4) A court appointed special advocate for a child who is the subject of the proceeding or a paid staff member of a court appointed special advocate program.

(5) Any individual, or any public or private agency or institution, having custody of the child under court order or providing educational, medical or mental health services to the child or any placement provider or potential placement provider as determined by

the secretary or court services officer.

(6) A citizen review board.

(7) ~~The commissioner of juvenile justice~~ secretary of corrections or any agents designated by the ~~commissioner~~ secretary of corrections.

(8) Any county or district attorney from another jurisdiction with a pending child in need of care matter regarding any of the same parties.

(9) Any other person when authorized by a court order, subject to any conditions imposed by the order.

~~(9)–(10)~~ The commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.

(b) *Access to the social file.* The following persons or entities shall have access to the social file of a child in need of care proceeding pursuant to this code:

(1) The court having jurisdiction over the proceeding, including the presiding judge and any court personnel designated by the judge.

(2) The attorney for a party to the proceeding or the person or persons designated by an Indian tribe that is a party.

(3) The guardian ad litem for a child who is the subject of the proceeding.

(4) A court appointed special advocate for a child who is the subject of the proceeding or a paid staff member of a court appointed special advocate program.

(5) A citizen review board.

(6) The secretary.

(7) ~~The commissioner of juvenile justice~~ secretary of corrections or any agents designated by the ~~commissioner~~ secretary of corrections.

(8) Any county or district attorney from another jurisdiction with a pending child in need of care matter regarding any of the same parties or interested parties.

(9) Any other person when authorized by a court order, subject to any conditions imposed by the order.

(c) *Preservation of records.* The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas code for care of children whenever such records otherwise would be destroyed. No such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 70 years after creation of the records, except as provided in subsections (a) and (b). Pursuant to subsections (a)~~(8)~~(9) and (b)~~(8)~~(9), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas code for care of children.";

On page 14, by striking all in lines 5 through 43;

By striking all on page 15;

On page 16, by striking all in lines 1 through 32 and inserting:

"Sec. 17. K.S.A. 2015 Supp. 38-2302, as amended by section 29 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) "Commissioner" means the secretary of corrections or the secretary's designee.

(b) "Community supervision officer" means any officer from court services, community corrections or any other individual authorized to supervise a juvenile on an immediate intervention, probation or conditional release.

(c) "Conditional release" means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, under conditions established by the secretary of corrections.

(d) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 2015 Supp. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2015 Supp. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

(e) "Detention risk assessment tool" means a risk assessment instrument adopted pursuant to K.S.A. 75-7023(f), and amendments thereto, used to identify factors shown to be statistically related to a juvenile's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(f) "Educational institution" means all schools at the elementary and secondary levels.

(g) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-89b03(a)(1) through (5), and amendments thereto.

(h) "Evidence-based" means practices, policies, procedures and programs demonstrated by research to produce reduction in the likelihood of reoffending.

(i) "Graduated responses" means a system of community-based sanctions and incentives developed pursuant to K.S.A. 75-7023(h) and section 2, and amendments thereto, used to address violations of immediate interventions, terms and conditions of probation and conditional release and to incentivize positive behavior.

(j) "Immediate intervention" means all programs or practices developed by the county to hold juvenile offenders accountable while allowing such offenders to be diverted from formal court processing pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto.

(k) "Institution" means the Larned juvenile correctional facility and the Kansas juvenile correctional complex.

(l) "Investigator" means an employee of the ~~juvenile justice authority~~ department of corrections assigned by the ~~commissioner~~ secretary of corrections with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the ~~commissioner~~ secretary of corrections at a juvenile correctional facility.

(m) "Jail" means: (1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(n) "Juvenile" means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.

(o) "Juvenile correctional facility" means a facility operated by the secretary of corrections for the commitment of juvenile offenders.

(p) "Juvenile corrections officer" means a certified employee of the department of corrections working at a juvenile correctional facility assigned by the secretary of corrections with responsibility for maintaining custody, security and control of juveniles in the custody of the secretary of corrections at a juvenile correctional facility.

(q) "Juvenile detention facility" means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

(r) "Juvenile intake and assessment worker" means a responsible adult trained and authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(s) "Juvenile offender" means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2015 Supp. 21-5102, and amendments thereto, or who violates the provisions of K.S.A. 41-727, K.S.A. 74-8810(j) or K.S.A. 2015 Supp. 21-6301(a)(14), and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in K.S.A. 8-2117(d), and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(3) a person under 18 years of age who previously has been:

(A) Convicted as an adult under the Kansas criminal code;

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 2015 Supp. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 2015 Supp. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.

(t) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(u) "Overall case length limit" when used in relation to a juvenile adjudicated a juvenile offender means the maximum jurisdiction of the court following disposition on an individual case. Pursuant to K.S.A. 2015 Supp. 38-2304, and amendments thereto, the case and the court's jurisdiction shall terminate once the overall case length limit expires and may not be extended.

(v) "Parent" when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

(w) "Probation" means a period of community supervision ordered pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, overseen by either court services or community corrections, but not both.

(x) "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best

interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

(y) "Reintegration plan" means a written document prepared in consultation with the child's parent or guardian that:

(1) Describes the reintegration goal, which, if achieved, will most likely give the juvenile and the victim of the juvenile a permanent and safe living arrangement;

(2) describes the child's level of physical health, mental and emotional health and educational functioning;

(3) provides an assessment of the needs of the child and family;

(4) describes the services to be provided to the child, the child's family and the child's foster parents, if appropriate;

(5) includes a description of the tasks and responsibilities designed to achieve the plan and to whom assigned;

(6) includes measurable objectives and time schedules for achieving the plan; and

(7) if the child is in an out of home placement:

(A) Provides a statement for the basis of determining that reintegration is determined not to be a viable option if such a determination is made and includes a plan for another permanent living arrangement;

(B) describes available alternatives;

(C) justifies the alternative placement selected, including a description of the safety and appropriateness of such placement; and

(D) describes the programs and services that will help the child prepare to live independently as an adult.

~~(y)~~ (z) "Risk and needs assessment" means a standardized instrument administered on juveniles to identify specific risk factors and needs shown to be statistically related to a juvenile's risk of reoffending and, when properly addressed, can reduce a juvenile's risk of reoffending.

~~(z)~~ (aa) "Secretary" means the secretary of corrections or the secretary's designee.

~~(aa)~~ (bb) "Technical violation" means an act that violates the terms or conditions imposed as part of a probation disposition pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, and that does not constitute a new juvenile offense or a new child in need of care violation pursuant to K.S.A. 2015 Supp. 38-2202(d), and amendments thereto.

~~(bb)~~ (cc) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

~~(cc)~~ (dd) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.";

On page 27, following line 18, by inserting:

"Sec. 22. On and after January 1, 2017, K.S.A. 2015 Supp. 75-7023, as amended by section 63 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 75-7023.

(a) The secretary for children and families may contract with the secretary of corrections to provide for the juvenile intake and assessment system and programs for

children in need of care. Except as provided further, the secretary of corrections shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If the secretary contracts with the office of judicial administration to administer the juvenile intake and assessment system and programs concerning juvenile offenders, the supreme court administrative orders shall be in force until such contract ends and the rules and regulations concerning juvenile intake and assessment system and programs concerning juvenile offenders have been adopted.

(b) ~~No~~ Except as otherwise provided in this subsection, records, reports and information obtained as a part of the juvenile intake and assessment process ~~may shall~~ not be admitted into evidence in any proceeding and ~~may shall~~ not be used in a child in need of care proceeding ~~except or a juvenile offender proceeding~~.

(1) Such records, reports and information may be used in a child in need of care proceeding for diagnostic and referral purposes and by the court in considering dispositional alternatives. ~~However,~~ If the records, reports or information are in regard to abuse or neglect, which is required to be reported under K.S.A. 2015 Supp. 38-2223, and amendments thereto, such records, reports or information may then be used for any purpose in a child in need of care proceeding pursuant to the revised Kansas code for care of children.

(2) Such records, reports and information may be used in a juvenile offender proceeding only if such records, reports and information are in regard to the possible trafficking of a runaway. Such records, reports and information in regard to the possible trafficking of a runaway shall be made available to the appropriate county or district attorney and the court, and shall be used only for diagnostic and referral purposes.

(c) Upon a juvenile being taken into custody pursuant to K.S.A. 2015 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment worker shall complete the intake and assessment process, making release and referral determinations as required by supreme court administrative order or district court rule, or except as provided above rules and regulations established by the secretary of corrections.

(d) Except as provided in subsection (g) and in addition to any other information required by the supreme court administrative order, the secretary for children and families, the secretary of corrections or by the district court of such district, the juvenile intake and assessment worker shall collect the following information either in person or over two-way audio or audio-visual communication:

(1) The results of a standardized detention risk assessment tool pursuant to K.S.A. 2015 Supp. 38-2302, and amendments thereto, if detention is being considered for the juvenile, such as the problem oriented screening instrument for teens;

(2) criminal history, including indications of criminal gang involvement;

(3) abuse history;

(4) substance abuse history;

(5) history of prior community services used or treatments provided;

(6) educational history;

(7) medical history;

(8) family history; and

(9) the results of other assessment instruments as approved by the secretary.

(e) After completion of the intake and assessment process for such child, the intake and assessment worker shall make both a release and a referral determination:

(1) Release the child to the custody of the child's parent, other legal guardian or another appropriate adult.

(2) Conditionally release the child to the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that if the conditions are met, it would be in the child's best interest to release the child to such child's parent, other legal guardian or another appropriate adult; and the intake and assessment worker has reason to believe that it might be harmful to the child to release the child to such child's parents, other legal guardian or another appropriate adult without imposing the conditions. The conditions may include, but not be limited to the alternatives listed in K.S.A. 2015 Supp. 38-2331(b), and amendments thereto, and the following:

- (A) Participation of the child in counseling;
- (B) participation of members of the child's family in counseling;
- (C) participation by the child, members of the child's family and other relevant persons in mediation;
- (D) provision of outpatient treatment for the child;
- (E) referral of the child and the child's family to the secretary for children and families for services and the agreement of the child and family to accept and participate in the services offered;
- (F) referral of the child and the child's family to available community resources or services and the agreement of the child and family to accept and participate in the services offered;
- (G) requiring the child and members of the child's family to enter into a behavioral contract which may provide for regular school attendance among other requirements; or
- (H) any special conditions necessary to protect the child from future abuse or neglect.

(3) Deliver the child to a shelter facility or a licensed attendant care center along with the law enforcement officer's written application for a maximum stay of up to 72 hours. The shelter facility or licensed attendant care facility shall then have custody as if the child had been directly delivered to the facility by the law enforcement officer pursuant to K.S.A. 2015 Supp. 38-2232, and amendments thereto.

(4) The intake and assessment worker shall also refer the juvenile's case to one of the following:

(A) An immediate intervention program pursuant to K.S.A. 2015 Supp. 38-2346(b), and amendments thereto;

(B) the county or district attorney for appropriate proceedings to be filed, with or without a recommendation that the juvenile be considered for alternative means of adjudication programs pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto, or immediate intervention pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto; or

(C) refer the child and family to the secretary for children and families for investigations in regard to the allegations.

(f) The secretary of corrections, in conjunction with the office of judicial administration, shall develop, implement and validate on the Kansas juvenile population, a statewide detention risk assessment tool.

(1) The assessment shall be conducted for each youth under consideration for detention and may only be conducted by a juvenile intake and assessment worker who

has completed training to conduct the detention risk assessment tool.

(2) The secretary and the office of judicial administration shall establish cutoff scores determining eligibility for placement in a juvenile detention facility or for referral to a community-based alternative to detention and shall collect and report data regarding the use of the detention risk assessment tool.

(3) The detention risk assessment tool includes an override function that may be approved by the court for use under certain circumstances. If approved by the court, the juvenile intake and assessment worker or the court may override the detention risk assessment tool score in order to direct placement in a short-term shelter facility, a community-based alternative to detention or, subject to K.S.A. 2015 Supp. 38-2331, and amendments thereto, a juvenile detention facility. Such override must be documented, include a written explanation and receive approval from the director of the intake and assessment center or the court.

(4) If a juvenile meets one or more eligibility criteria for detention or referral to a community-based alternative to detention, the person with authority to detain shall maintain discretion to release the juvenile if other less restrictive measures would be adequate.

(g) Parents, guardians and juveniles may access the juvenile intake and assessment programs on a voluntary basis. The parent or guardian shall be responsible for the costs of any such program utilized.

(h) Every juvenile intake and assessment worker shall receive training in evidence-based practices, including, but not limited to:

- (1) Risk and needs assessments;
- (2) individualized diversions based on needs and strengths;
- (3) graduated responses;
- (4) family engagement;
- (5) trauma-informed care;
- (6) substance abuse;
- (7) mental health; and
- (8) special education.";

On page 29, in line 14, after "Supp." by inserting "23-3203, 38-2201,"; also in line 14, after "38-2210," by inserting "38-2211,"; in line 15, after "38-2302," by inserting "as amended by section 29 of 2016 Senate Bill No. 367,"; following line 16, by inserting:

"Sec. 24. On and after January 1, 2017, K.S.A. 2015 Supp. 75-7023, as amended by section 22 of this act, and 75-7023, as amended by section 63 of 2016 Senate Bill No. 367, are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon, by inserting "enacting the host families act,"; in line 2, after "Supp." by inserting "23-3203, 38-2201,"; in line 3, after "2210," by inserting "38-2211,"; also in line 3, after "38-2302," by inserting "as amended by section 29 of 2016 Senate Bill No. 367,"; in line 4, by striking the first "and" and inserting a comma; also in line 4, after "75-7023" by inserting "and 75-7023, as amended by section 63 of 2016 Senate Bill No. 367,"; in line 5, before the period, by inserting "and 75-7023, as amended by section 22 of this act";

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

JOHN BARKER
 CHARLES MACHEERS
 JOHN CARMICHAEL
Conferees on part of House

JEFF KING
 GREG SMITH
 DAVID HALEY
Conferees on part of Senate

Senator King moved the Senate adopt the Conference Committee Report on **SB 418**.

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

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Fitzgerald, Hensley, Holland, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wilborn, Wolf.

Nays: Faust-Goudeau, Hawk, Kelly, Longbine, V. Schmidt.

Present and Passing: Francisco, Haley.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2365 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 12 through 36;

By striking all on pages 2 through 70 and inserting:

"New Section 1. On and after July 1, 2016, notwithstanding the provisions of section 109 of chapter 104 of the 2015 Session Laws of Kansas, the provisions of K.S.A. 2015 Supp. 75-5958, and amendments thereto, shall be in full force and effect.

Sec. 2. K.S.A. 2015 Supp. 75-7435 is hereby amended to read as follows: 75-7435.

(a) As used in this section unless the context requires otherwise:

(1) Words and phrases have the meanings respectively ascribed thereto by K.S.A. 39-923, and amendments thereto.

(2) "Skilled nursing care facility" means a licensed nursing facility, nursing facility for mental health as defined in K.S.A. 39-923, and amendments thereto, or a hospital long-term care unit licensed by the department of health and environment, providing skilled nursing care, but shall not include the Kansas soldiers' home or the Kansas veterans' home.

(3) "Licensed bed" means those beds within a skilled nursing care facility which the facility is licensed to operate.

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

(5) "Continuing care retirement facility" means a facility holding a certificate of registration issued by the commissioner of insurance pursuant to K.S.A. 40-2235, and amendments thereto.

(b) (1) Except as otherwise provided in this section and in subsection (f), there is

hereby imposed and the secretary of health and environment shall assess an annual assessment per licensed bed, hereinafter called a quality care assessment, on each skilled nursing care facility. The assessment on all facilities in the aggregate shall be an amount fixed by rules and regulations of the secretary of health and environment, shall not exceed ~~\$1,950~~ \$4,908 annually per licensed bed, shall be imposed as an amount per licensed bed and shall be imposed uniformly on all skilled nursing care facilities except that the assessment rate for skilled nursing care facilities that are part of a continuing care retirement facility, small skilled nursing care facilities and high medicaid volume skilled nursing care facilities shall not exceed $\frac{1}{6}$ of the actual amount assessed all other skilled nursing care facilities. No rules and regulations of the secretary of health and environment shall grant any exception to or exemption from the quality care assessment. The assessment shall be paid quarterly, with one fourth of the annual amount due by the 30th day after the end of the month of each calendar quarter. The secretary of health and environment is authorized to establish delayed payment schedules for skilled nursing care facilities which are unable to make quarterly payments when due under this section due to financial difficulties, as determined by the secretary of health and environment. As used in this ~~subsection (b)(1) paragraph~~, the terms "small skilled nursing care facilities" and "high medicaid volume skilled nursing care facilities" shall have the meanings ascribed thereto by the secretary of health and environment by rules and regulations, except that the definition of small skilled nursing care facility shall not be lower than 40 beds.

(2) Beds licensed after July 1 each year shall pay a prorated amount of the applicable annual assessment so that the assessment applies only for the days such new beds are licensed. The proration shall be calculated by multiplying the applicable assessment by the percentage of days the beds are licensed during the year. Any change which reduces the number of licensed beds in a facility shall not result in a refund being issued to the skilled nursing care facility.

(3) If an entity conducts, operates or maintains more than one licensed skilled nursing care facility, the entity shall pay the nursing facility assessment for each facility separately. No skilled nursing care facility shall create a separate line-item charge for the purpose of passing through the quality care assessment to residents. No skilled nursing care facility shall be guaranteed, expressly or otherwise, that any additional moneys paid to the facility under this section will equal or exceed the amount of its quality care assessment.

(4) The payment of the quality care assessment to the secretary of health and environment shall be an allowable cost for medicaid reimbursement purposes. A rate adjustment pursuant to ~~paragraph (5) of subsection (d)(5)~~ shall be made effective on the date of imposition of the assessment, to reimburse the portion of this cost imposed on medicaid days.

(5) The secretary of health and environment shall seek a waiver from the United States department of health and human services to allow the state to impose varying levels of assessments on skilled nursing care facilities based on specified criteria. It is the intent of the legislature that the waiver sought by the secretary of health and environment be structured to minimize the negative fiscal impact on certain classes of skilled nursing care facilities.

(c) Each skilled nursing care facility shall prepare and submit to the secretary of health and environment any additional information required and requested by the

secretary of health and environment to implement or administer the provisions of this section. Each skilled nursing care facility shall prepare and submit quarterly to the secretary for aging and disability services the rate the facility charges to private pay residents, and the secretary shall cause this information to be posted on the web site of the department for aging and disability services.

(d) (1) There is hereby created in the state treasury the quality care fund, which shall be administered by the secretary of health and environment. All moneys received for the assessments imposed pursuant to subsection (b), including any penalty assessments imposed thereon pursuant to subsection (e), 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 in the state treasury to the credit of the quality care fund. All expenditures from the quality care fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's agent.

(2) All moneys in the quality care fund shall be used to finance initiatives to maintain or improve the quantity and quality of skilled nursing care in skilled nursing care facilities in Kansas. No moneys credited to the quality care fund shall be transferred to or otherwise revert to the state general fund at any time. Notwithstanding the provisions of any other law to the contrary, if any moneys credited to the quality care fund are transferred or otherwise revert to the state general fund, 30 days following the transfer or reversion the quality care assessment shall terminate and the secretary of health and environment shall discontinue the imposition, assessment and collection of the assessment. Upon termination of the assessment, all collected assessment revenues, including the moneys inappropriately transferred or reverting to the state general fund, less any amounts expended by the secretary of health and environment, shall be returned on a pro rata basis to skilled nursing care facilities that paid the assessment.

(3) Any moneys received by the state of Kansas from the federal government as a result of federal financial participation in the state medicaid program that are derived from the quality care assessment shall be deposited in the quality care fund and used to finance actions to maintain or increase healthcare in skilled nursing care facilities.

(4) Moneys in the fund shall be used exclusively for the following purposes:

(A) To pay administrative expenses incurred by the secretary of health and environment or the agent in performing the activities authorized by this section, except that such expenses shall not exceed a total of 1% of the aggregate assessment funds collected pursuant to subsection (b) for the prior fiscal year;

(B) to increase nursing facility payments to fund covered services to medicaid beneficiaries within medicare upper payment limits, as may be negotiated;

(C) to reimburse the medicaid share of the quality care assessment as a pass-through medicaid allowable cost;

(D) to restore the medicaid rate reductions implemented January 1, 2010;

(E) to restore funding for fiscal year 2010, including rebasing and inflation to be applied to rates in fiscal year 2011;

(F) the remaining amount, if any, shall be expended first to increase the direct health care costs center limitation up to 150% of the case mix adjusted median, and then, if there are remaining amounts, for other quality care enhancement of skilled nursing care facilities as approved by the quality care improvement panel but shall not

be used directly or indirectly to replace existing state expenditures for payments to skilled nursing care facilities for providing services pursuant to the state medicaid program.

(5) Any moneys received by a skilled nursing care facility from the quality care fund shall not be expended by any skilled nursing care facility to provide for bonuses or profit-sharing for any officer, employee or parent corporation but may be used to pay to employees who are providing direct care to a resident of such facility.

(6) Adjustment payments may be paid quarterly or within the daily medicaid rate to reimburse covered medicaid expenditures in the aggregate within the upper payment limits.

(7) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the quality care fund interest earnings based on:

(A) The average daily balance of moneys in the quality care fund for the preceding month; and

(B) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) If a skilled nursing care facility fails to pay the full amount of the quality care assessment imposed pursuant to subsection (b), when due and payable, including any extensions of time granted under that subsection, the secretary of health and environment shall assess a penalty in the amount of the lesser of \$500 per day or 2% of the quality care assessment owed for each day the assessment is delinquent. The secretary of health and environment is authorized to establish delayed payment schedules for skilled nursing care facilities that are unable to make installment payments when due under this section because of financial difficulties, as determined by the secretary of health and environment.

(f) (1) The secretary of health and environment shall assess and collect quality care assessments imposed pursuant to subsection (b), including any penalty assessments imposed thereon pursuant to subsection (e), from skilled nursing care facilities on and after July 1, 2010, except that no assessments or penalties shall be assessed under subsections (a) through (h) until:

(A) An amendment to the state plan for medicaid, which increases the rates of payments made to skilled nursing care facilities for providing services pursuant to the federal medicaid program and which is proposed for approval for purposes of subsections (a) through (h) is approved by the federal government in which case the initial assessment is due no earlier than 60 days after state plan approval; and

(B) the skilled nursing care facilities have been compensated retroactively within 60 days after state plan approval at the increased rate for services provided pursuant to the federal medicaid program for the period commencing on and after July 1, 2010.

(2) The secretary of health and environment shall implement and administer the provisions of subsections (a) through (h) in a manner consistent with applicable federal medicaid laws and regulations. The secretary of health and environment shall seek any necessary approvals by the federal government that are required for the implementation of subsections (a) through (h).

(3) The provisions of subsections (a) through (h) shall be null and void and shall have no force and effect if one of the following occur:

(A) The medicaid plan amendment, which increases the rates of payments made to

skilled nursing care facilities for providing services pursuant to the federal medicaid program and which is proposed for approval for purposes of subsections (a) through (h) is not approved by the federal centers for medicare and medicaid services;

(B) the rates of payments made to skilled nursing care facilities for providing services pursuant to the federal medicaid program are reduced below the rates calculated on December 31, 2009, increased by revenues in the quality care fund and matched by federal financial participation and rebasing as provided for in K.S.A. 2015 Supp. 75-5958, and amendments thereto;

(C) any funds are utilized to supplant funding for skilled nursing care facilities as required by subsection (g);

(D) any funds are diverted from those purposes set forth in subsection (d)(4); or

(E) upon the governor signing, or allowing to become law without signature, legislation which by proviso or otherwise directs any funds from those purposes set forth in subsection (d)(4) or which would propose to suspend the operation of this section.

(g) On and after July 1, 2010, reimbursement rates for skilled nursing care facilities shall be restored to those in effect during December 2009. No funds generated by the assessments or federal funds generated therefrom shall be utilized for such restoration, but such funds may be used to restore the rate reduction in effect from January 1, 2010, to June 30, 2010.

(h) Rates of reimbursement shall not be limited by private pay charges.

(i) If the provisions of subsections (a) through (h) are repealed, expire or become null and void and have no further force and effect, all moneys in the quality care fund which were paid under the provisions of subsections (a) through (h) shall be returned to the skilled nursing care facilities which paid such moneys on the basis on which such payments were assessed and paid pursuant to subsections (a) through (h).

(j) The department of health and environment may adopt rules and regulations necessary to implement the provisions of this section.

(k) For purposes of administering and selecting the reimbursements of moneys in the quality care assessment fund, the quality care improvement panel is hereby established. The panel shall consist of the following members: Two persons appointed by ~~leadingage Kansas homes and services for the aging~~; two persons appointed by the Kansas health care association; one person appointed by Kansas advocates for better care; one person appointed by the Kansas hospital association; one person appointed by the governor who is a member of the Kansas adult care executives association; one person appointed by the governor who is a skilled nursing care facility resident or the family member of such a resident; one person appointed by the Kansas foundation for medical care; one person appointed by the governor from the department for aging and disability services; ~~and~~ one person appointed by the governor from the department of health and environment; one person appointed by the president of the senate who is affiliated with an organization representing and advocating the interests of retired persons in Kansas; and one person appointed by the speaker of the house of representatives who is a volunteer with the office of the state long-term care ombudsman established by the long-term care ombudsman act. The person appointed by the governor from the department for aging and disability services and the person appointed by the governor from the department of health and environment shall be nonvoting members of the panel. The panel shall meet as soon as possible subsequent to

the effective date of this act and shall elect a chairperson from among the members appointed by the trade organizations specified in this subsection. The members of the quality care improvement panel shall serve without compensation or expenses. The quality care improvement panel shall report annually on or before January 10 to the legislature senate committees on public health and welfare and ways and means, the house committees on appropriations and health and human services and the Robert G. (Bob) Bethell joint committee on home and community based services and KanCare oversight concerning the progress to reduce the incidence of antipsychotic drug use in elders with dementia, participation in the nursing facility quality and efficiency outcome incentive factor, participation in the culture change and person-centered care incentive program, annual resident satisfaction ratings for Kansas skilled nursing care facilities and the activities of the panel during the preceding calendar year and any recommendations which the panel may have concerning the administration of and expenditures from the quality care assessment fund.

(l) The provisions of this section shall expire on July 1, ~~2016~~ 2020.

Sec. 3. K.S.A. 2015 Supp. 75-7435 is hereby repealed.

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

On page 1, in the title, in line 1, by striking all after "ACT"; by striking all in lines 2 through 9 and inserting "concerning skilled nursing care facilities; relating to the quality care assessment; rate and sunset thereof; quality care improvement panel membership; reporting requirements; amending K.S.A. 2015 Supp. 75-7435 and repealing the existing section."

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

TY MASTERSON

JIM DENNING

LAURA KELLY

Conferees on part of Senate

RON RYCKMAN, JR.

SHARON SCHWARTZ

JERRY HENRY

Conferees on part of House

Senator Denning moved the Senate adopt the Conference Committee Report on **S Sub HB 2365**.

On roll call, the vote was: Yeas 36; Nays 4; Present and Passing 0; Absent or Not Voting 0.

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

Nays: Baumgardner, Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2509 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 3, in line 5, after "1%" by inserting ", not to exceed \$200,000,"; in line 7, after the period by inserting "The secretary may also recover any actual costs incurred by the secretary in excess of the fee."; also in line 7, after "fee" by inserting ", and any actual costs incurred by the secretary in excess of the fee,";

On page 5, in line 24, after "1%" by inserting ", not to exceed \$200,000,"; in line 25, after the period by inserting "The secretary may also recover any actual costs incurred by the secretary in excess of the fee."; also in line 25, after "fee" by inserting ", and any actual costs incurred by the secretary in excess of the fee,"; in line 27, by striking all before "assessed"; in line 28, by striking "fee" and inserting "amount"; in line 31, after "fee" by inserting "and any actual costs in excess of the fee assessed by the secretary"; in line 35, after "fees" by inserting ", and any actual costs incurred by the secretary in excess of the fee,";

JULIA LYNN
SUSAN WAGLE
TOM HOLLAND

Conferees on part of Senate

LARRY CAMPBELL
TOM SLOAN
PAM CURTIS

Conferees on part of House

Senator Lynn moved the Senate adopt the Conference Committee Report on **S Sub HB 2509**.

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

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

Nays: Baumgardner, Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2696 submits the following report:

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

On page 1, following line 5, by inserting:

"New Section 1. (a) There is hereby created in the state treasury, the Kansas highway patrol staffing and training fund. Moneys credited to the Kansas highway patrol staffing and training fund shall be used by the highway patrol for increasing employment and retaining personnel at the highway patrol and for no other purpose. All expenditures from the Kansas highway patrol staffing and training fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the highway patrol.

(b) The moneys credited to the fund created in subsection (a) shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this section.

New Sec. 2. In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay at the time of registration a nonrefundable Kansas highway patrol staffing and training surcharge in the amount of \$2 for each vehicle being registered.

New Sec. 3. In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay, at the time of registration, a nonrefundable law enforcement training center surcharge in the amount of \$1.25 for each vehicle being registered.

Sec. 4. K.S.A. 2015 Supp. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state, and the county treasurer shall issue a receipt in triplicate, on blanks furnished by the division of vehicles, one copy of which shall be filed in the county treasurer's office, one copy shall be delivered to the applicant and the original copy shall be forwarded to the director of vehicles.

(b) The county treasurer shall deposit \$.75 of each license application, \$.75 out of each application for transfer of license plate and \$2 out of each application for a certificate of title, collected by such treasurer under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 2006 or any calendar year thereafter: The sum of \$110 per hundred registrations for the first 5,000 registrations; the sum of \$90 per hundred registrations for the second 5,000 registrations; the sum of \$5 per hundred for the third 5,000 registrations; and the sum of \$2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than \$15,000 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to

the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (d).

(d) (1) Three dollars and fifty cents of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPS/CAMA technology hardware fund.

(2) For repossessed vehicles, \$3 of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the repossessed certificates of title fee fund.

(3) Three dollars and fifty cents of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPS/CAMA technology hardware fund.

(4) Until January 1, 2013, \$4 of each division of vehicles modernization surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$4 to the division of vehicles modernization fund, on and after January 1, 2013, the state treasurer shall credit such \$4 to the state highway fund.

(5) Two dollars of each Kansas highway patrol staffing and training surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$2 to the Kansas highway patrol staffing and training fund.

(6) One dollar and twenty-five cents of each law enforcement training center surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$1.25 to the law enforcement training center fund.

Sec. 5. K.S.A. 2015 Supp. 74-5619 is hereby amended to read as follows: 74-5619.

(a) (1) There is hereby created in the state treasury the law enforcement training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law.

(2) All moneys received for assessments as provided pursuant to K.S.A. 74-5607, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the

credit of the law enforcement training center fund.

(b) There is hereby created in the state treasury the Kansas commission on peace officers' standards and training fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose of the operation of the commission to carry out its powers and duties as mandated by law. The director may apply for and receive public or private grants, gifts and donations of money for the commission. All moneys received from grants, gifts and donations shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas commission on peace officers' standards and training fund.

(c) The moneys credited to the funds created in subsections (a) and (b) shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the moneys deposited in these funds shall remain intact and inviolate for the purposes set forth in this section.

(d) This section shall be part of and supplemental to the Kansas law enforcement training act.

Sec. 6. K.S.A. 12-4112 is hereby amended to read as follows: 12-4112. No person shall be assessed costs for the administration of justice in any municipal court case, except for:

(a) Witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto;

(b) ~~for the assessment required by K.S.A. 2001 Supp. 20-1a11 12-4116, and amendments thereto; for the judicial branch education fund;~~

(c) ~~for the assessment required by K.S.A. 12-4117, and amendments thereto; for the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, and the juvenile detention facilities fund as provided in K.S.A. 12-4117, and amendments thereto; and~~

(d) ~~for the assessment required by K.S.A. 12-16,119, and amendments thereto; for the detention facility processing fee.~~

Sec. 7. K.S.A. 2015 Supp. 12-4117 is hereby amended to read as follows: 12-4117.

(a) In each case filed in municipal court other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of ~~\$20~~ \$22.50 shall be assessed and such assessment shall be credited as follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, ~~\$2.50~~ \$5 to the Kansas commission on peace officers' standards and training fund established by K.S.A. 74-5619, and amendments thereto, \$2 to the juvenile detention facilities fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto, \$1 to the trauma fund established pursuant to K.S.A. 2015 Supp. 75-5670, and amendments thereto, and \$1 to the department of corrections

forensic psychologist fund established pursuant to K.S.A. 2015 Supp. 75-52,151, and amendments thereto.

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the local law enforcement training reimbursement fund, the law enforcement training center fund, the Kansas commission on peace officers' standards and training fund, the juvenile detention facilities fund, the crime victims assistance fund, the trauma fund and the department of corrections forensic psychologist fund as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.;

On page 8, in line 25, before the first "K.S.A." by inserting "K.S.A. 12-4112 and"; also in line 25, after "Supp." by inserting "8-145, 12-4117,"; also in line 25, after "22-2401a" by inserting ", 74-5619"; in line 27, by striking "Kansas register" and inserting "statute book";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "enforcement;" by inserting "creating the Kansas highway patrol staffing and training fund; relating to the law enforcement training center fund and the commission on peace officers' standards and training fund; vehicle registration fees; municipal court assessments;" in line 2, after "amending" by inserting "K.S.A. 12-4112 and"; also in line 2, after "Supp." by inserting "8-145, 12-4117,"; also in line 2, after "22-2401a" by inserting ", 74-5619";

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

JEFF KING

GREG SMITH

DAVID HALEY

Conferees on part of Senate

JOHN BARKER

CHARLES MACHEERS

JOHN CARMICHAEL

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **HB 2696**.

On roll call, the vote was: Yeas 36; Nays 4; Present and Passing 0; Absent or Not Voting 0.

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

Nays: Baumgardner, Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2739** 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, in line 6, before "Section" by inserting "New"; following line 34, by inserting:

"New Sec. 2. (a) On July 1, 2017, the budget stabilization fund is hereby established in the state treasury.

(b) On or before the 10th day of each month commencing July 1, 2017, the director of accounts and reports shall transfer from the state general fund to the budget stabilization fund interest earnings based on:

(1) The average daily balance of moneys in the budget stabilization fund, for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(c) On and after July 1, 2017, no moneys in the budget stabilization fund shall be expended pursuant to this subsection unless the expenditure either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711(c), and amendments thereto.

(d) (1) During the 2016 interim between regular sessions of the legislature, the legislative budget committee shall study and review the policy concerning the balance of, transfers to and expenditures from the budget stabilization fund. The legislative budget committee study and review shall include, but not be limited to, the following:

(A) Risk-based budget stabilization fund practices utilized in other states.

(B) The appropriate number of years to review the state general fund:

(i) Revenue variances from projections; and

(ii) expenditure variances from budgets.

(C) The entity to certify the amount necessary in the budget stabilization fund to maintain the appropriate risk-based balance.

(D) Plan to fund the budget stabilization fund.

(E) Process and circumstances to reach the appropriate risk-based balance, including the amount of risk that is acceptable.

(F) Circumstances under which expenditures may be made from the fund.

(2) The legislative budget committee may make recommendations and introduce legislation as it deems necessary to implement such recommendations.

(3) Notwithstanding the provisions of sections 52 and 53 of chapter 104 of the 2015 Session Laws of the Kansas, section 18 of 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 regular session of the legislature, the legislative budget committee may meet not more than 10 days to study and review such policies as determined by the chairperson of the committee.

Sec. 3. K.S.A. 2015 Supp. 75-3721 is hereby amended to read as follows: 75-3721.

(a) On or before the eighth calendar day of each regular legislative session, the governor

shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include: (i) Any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue; or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the governor's recommendations thereon, which shall include amounts for payments by the state board of regents pursuant to K.S.A. 75-4364, and amendments thereto. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the Kansas children's cabinet established by K.S.A. 38-1901, and amendments thereto, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget

messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.

(g) The division of the budget shall compile a Kansas homeland security budget document consisting of the information contained in agency budget estimates under ~~subsection (a)(3) of K.S.A. 75-3717(a)(3)~~, and amendments thereto. Such document shall be provided to the house of representatives committee on appropriations, the senate committee on ways and means and such other committees upon request.

(h) Commencing with fiscal year 2018, the ending balance in the state general fund in any fiscal year shall include the unexpended and unencumbered balances in the:

(1) State general fund; and

(2) budget stabilization fund, established in section 2, and amendments thereto.

Sec. 4. K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 75-3722. (a) An allotment system will be applicable to the expenditure of the resources of any state agency, under rules and regulations established as provided in K.S.A. 75-3706, and amendments thereto, only if in the opinion of the secretary of administration on the advice of the director of the budget, the use of an allotment plan is necessary or beneficial to the state. In making this determination the secretary of administration shall take into consideration all pertinent factors including:

- (1) Available resources;
- (2) current spending rates;
- (3) work loads;
- (4) new activities, especially any proposed activities not covered in the agency's request to the governor and the legislature for appropriations;
- (5) the minimum current needs of each agency;
- (6) requests for deficiency appropriations in prior fiscal years;
- (7) unexpended and unencumbered balances; and
- (8) revenue collection rates and prospects.

(b) Whenever for any fiscal year it appears that the resources of the general fund or any special revenue fund are likely to be insufficient to cover the appropriations made against such general fund or special revenue fund, the secretary of administration, on the advice of the director of the budget, shall, in such manner as ~~he or she~~ the secretary may determine, inaugurate the allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of the general fund or any special revenue fund for that fiscal year. When reviewing the resources of the general fund or any special revenue fund for the purposes of issuing an allotment, the secretary shall not take into consideration the balance in the budget stabilization fund.

(c) (1) The allotment system shall not apply to the legislature or to the courts or their officers and employees, or to payments made from the juvenile justice improvement fund, established in section 13, of 2016 Senate Bill No. 367, and amendments thereto, for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families. During the fiscal year ending June 30, 2017, the allotment system provided by this section shall not apply to any item of appropriation for employer contributions for the state of Kansas

and participating employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto.

(2) Agencies affected by decisions of the secretary of administration under this section shall be notified in writing at least 30 days before such decisions may become effective and any affected agency may, by written request addressed to the governor within 10 days after such notice, ask for a review of the decision by the finance council. The finance council shall hear appeals and render a decision within 20 days after the governor receives requests for such ~~hearings review~~.

Sec. 5. K.S.A. 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 75-6704. (a) The director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers. Periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for the current fiscal year and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for the current fiscal year. If the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify to the governor the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate. When estimating the amount of the unencumbered ending balance of moneys in the state general fund for the purposes of such certification, the director of the budget shall not take into consideration the balance in the budget stabilization fund.

(b) Upon receipt of any such certification and subject to approval of the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by K.S.A. 75-3711(c), and amendments thereto, the governor may issue an executive order reducing, by applying a percentage reduction determined by the governor in accordance with this section: (1) The amount authorized to be expended from each appropriation from the state general fund for the current fiscal year, other than any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or for payments made from the juvenile justice improvement fund for the development and implementation of evidence-based community programs and practices for juvenile offender and their families; and (2) the amount of each demand transfer from the state general fund for the current fiscal year, other than any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto.

(c) The reduction imposed by an executive order issued under this section shall be determined by the governor and may be equal to or less than the amount certified under subsection (a). Except as otherwise specifically provided by this section, the percentage reduction applied under subsection (b) shall be the same for each item of appropriation and each demand transfer and shall be imposed equally on all such items of

appropriation and demand transfers without exception. No such percentage reduction and no provisions of any such executive order under this section shall apply or be construed to reduce any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto. The provisions of such executive order shall be effective for all state agencies of the executive, legislative and judicial branches of state government.

(d) If the governor issues an executive order under this section, the director of accounts and reports shall not issue any warrant for the payment of moneys in the state general fund or make any demand transfer of moneys in the state general fund for any state agency unless such warrant or demand transfer is in accordance with such executive order and such warrant or demand transfer does not exceed the amount of money permitted to be expended or transferred from the state general fund.

(e) Nothing in this section shall be construed to: (1) Require the governor to issue an executive order under this section upon receipt of any such certification by the director of the budget; or (2) restrict the number of times that the director of the budget may make a certification under this section or that the governor may issue an executive order under this section.

Sec. 6. K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, and 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, and K.S.A. 2015 Supp. 75-3721 and 76-12a25 are hereby repealed.";

And by renumbering sections accordingly;

Also on page 1, in line 1, by striking "the budget process" and inserting "state finances"; in line 3, after "process" by inserting "; creating a budget stabilization fund; relating to state general fund revenue and expenditures; review of risk-based practices by the legislative budget committee; amending K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, and 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, and K.S.A. 2015 Supp. 75-3721 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 76-12a25";

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

TY MASTERSON

JIM DENNING

LAURA KELLY

Conferees on part of Senate

RON RYCKMAN, JR.

SHARON SCHWARTZ

JERRY HENRY

Conferees on part of House

Senator Masterson moved the Senate adopt the Conference Committee Report on **HB 2739**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

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

The Conference Committee Report was adopted.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **SB 366**.

The House adopts the Conference Committee report on **H Sub SB 280**.

On motion of Senator Bruce, the Senate adjourned until 1:00 p.m., Sunday, May 1, 2016.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

