

Journal of the House

FIFTY-EIGHTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, April 30, 2009, 11:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.

The roll was called with 121 members present.

Reps. Navinsky and Sawyer were excused on verified illness.

Rep. George and Landwehr were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Steve L. Vaughn, Senior Pastor, Fairlawn Nazarene Church, Topeka:

Gracious Father we ask that today you grant wisdom in the view of world-wide human sickness, global financial stress and political decisions that weigh difficult decisions upon this day.

Allow your presence to engulf these halls and offices to your will and your way.

Help us to remember that disgust and resolve are two of the greatest emotions that lead to change in our country.

Bestow upon this group your blessing and favor this day.

Please be with Rep. Neighbor and her family in the loss of her father.

In Christ's name I ask. Amen.

The Pledge of Allegiance was led by Rep. Benlon.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Bethell, on behalf of Reps. Crow and O'Brien, are spread upon the journal:

I have the opportunity today to introduce to you a person that like me is a Kansan by choice. It takes a special person to be a Kansan. If by birth you have the unique situation of being born into a family that has a foundation of fierce independence, or if by choice you have taken the opportunity to claim as your home a state with a rich heritage and history.

As a Kansan by choice there are always extenuating circumstances that interact, some come to Kansas by a twist of fate such as being stationed at Fort Riley as a member of the military. That alone, however, will not cause you to claim the state. Others may come as some of the early settlers with the hope or expectation of a better future. That may or may not keep your interest in Kansas.

Others like the gentleman I will introduce to you came to Kansas and found the reason to stay and claim Kansas as home. While doing that he has integrated himself into the patchwork of Kansas itself.

Major Robert Livingston Ober, or Rob as I have become accustomed to calling him, was stationed at Fort Riley and while there became acquainted with a young lady that I had the privilege of watching grow up. Rob's wife is Sarah, an Alden girl, well actually, a rural Alden girl. To be honest if you live anywhere near Alden you will be claimed as an Aldenite. From the marriage of Rob and Sarah there are two fantastic young ladies, Marissa and Heather. While this is important it is not the main reason I asked Rob to be here today.

We can all find reasons to be proud of Rob. The reason I want to bring to your attention is his service to the United States and to the State of Kansas. After being stationed at Fort

Riley, Rob was deployed to Afghanistan to be involved with the counter insurgency effort and served a year teaching Afghan nationals how to defend their country. Rob is now home, that is, back in Kansas enrolled in the United States Army Command and General Staff College.

The mission of the college is stated as follows:

The US Army Command and General Staff College educates and develops leaders for full spectrum joint, interagency and multinational operations; acts as lead agent for the Army's leader development program; and advances the art and science of the profession of arms in support of Army operational requirements.

I don't know where Rob will go from here but it is apparent that he is one that others have noticed is a leader. As he continues his career it will be exciting for me to watch what is in his future and an honor for me to say "I knew him when . . ."

I have prepared a framed House certificate recognizing his service to the United States and the state of Kansas and ask you to join me in showing him our appreciation for his dedication to our country.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Rep. Merrick, **HCR 5023**, by Rep. O'Neal and Davis, was introduced and adopted:

HOUSE CONCURRENT RESOLUTION No. 5023—

A CONCURRENT RESOLUTION providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Senate and the House of Representatives meet in joint session in Representative Hall at 4:00 p.m. on April 30, 2009, for the purpose of hearing the message of the Governor.

Be it further resolved: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the Governor.

In accordance with **HCR 5023**, Speaker O'Neal appointed Reps. Mast, Horst and Ward to escort the Governor.

Also, Reps. Shultz, Light and McCray-Miller to escort the Supreme Court.

Also, Reps. Aurand, Bethell and Williams to escort the Senate.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2401**, **HB 2403**.

Energy and Utilities: **HB 2402**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6030—

By Representative Williams

A RESOLUTION designating May 8 as Military Family Appreciation Day.

WHEREAS, Kansans have a long-standing tradition of serving in the Armed Forces of the United States, with thousands of Kansans giving their lives in defense of this country; and

WHEREAS, The contributions of Kansas military personnel have been vital to maintaining the freedoms and way of life that Americans cherish; and

WHEREAS, It is vital to raise awareness of the sacrifices that our brave men and women in uniform have made in the past and continue to make in order to defend the United States Constitution and to preserve the liberties that enrich this great nation; and

WHEREAS, It is also important to recognize and honor the sacrifices, support and dedication of the families of the men and women who have served in our armed forces; and

WHEREAS, Kansans recognize the importance of maintaining a strong, well-equipped, well-educated and well-trained military to safeguard freedoms and maintain peacekeeping missions around the world: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we designate May 8 as Military Family Appreciation Day in appreciation for the innumerable sacrifices and contributions they make in serving our country; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide an enrolled copy of this resolution to Representative Jerry Williams.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Grant, **HR 6025**, A resolution congratulating and commemorating the educational leadership and career of Mr. David DeMoss, was adopted.

There being no objection, the following remarks of Rep. Grant are spread upon the journal:

You say Dave DeMoss in Southeast Kansas and people say “Dave who?” No, not really. In Southeast Kansas, the name is well known. Dave is known as the guy who runs the Southeast Kansas Education Service Center - Greenbush. Greenbush is the best service center in Kansas and that reputation is because of Dave and the people he has employed.

During the mid 1970’s, five districts - Erie-St. Paul, Girard, Yates Center, Riverton, and Fort Scott Community College, joined together with one vision, to provide services to school districts that are otherwise unaffordable or unattainable for an individual district.

In keeping with their vision, the Southeast Kansas Education Service Center-Greenbush came to life in 1976 with three employees (Dave being the Director) in a small, vacant school building, on the basis that Greenbush would provide area school districts a way of accomplishing things that would be too costly individually.

Thirty-three years later, the Service Center continues to strive to provide districts with services that would otherwise be unaffordable or unavailable, ensures the best possible customer service, and to develop unique and innovative programs. Services first requested included an educational film library, repair of audio-visual equipment (back then, 16 millimeter film projectors), and cooperative purchasing. Many of the Service Center’s programs were started because a school administrator had a vision and came forward and said, “We wish we had” If two or more districts are in need of a service or program, Greenbush will figure out a way to make it happen.

How has Greenbush been so successful?

Quite simply, through Dave DeMoss’ leadership. He has insured the founding fathers vision “to provide equal educational opportunities for all students” is the mantra of all Greenbush staff.

Thank you Dave for caring about Kansas’ kids!

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Merrick, **HR 6026**, A resolution commemorating the twentieth anniversary of the sister-state relationship between the State of Kansas and the Province of Taiwan, Republic of China, was adopted.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Johnson, **HR 6028**, A resolution in memory of Richard E. “Dick” Eckert, was adopted.

There being no objection, the following remarks by Rep. Johnson are spread upon the journal:

Col. Richard E. Eckert was one of my mentors. I met him in 1959 when I was an officer candidate and he was the Senior TAC Officer for the Officer Candidate School.

I later worked for him for many years as Junior TAC Officer, Senior TAC Officer, and Assistant Commandant for the Officer Candidate School.

Col. Eckert was one who insisted on going by the book and he demanded perfection. He accepted no excuses. He was tough and demanding, but he was always fair.

I always knew what was expected of me and I worked hard to accomplish that goal.

Because of the influence of Col. Eckert, the Kansas Officer Candidate School is outstanding as evidenced by the many graduates who progressed to do great things in their military careers.

CONFERENCE COMMITTEE REPORT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) “Appropriately marked” official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

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

Sec. 2. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

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

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

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

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

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

Sec. 3. K.S.A. 2008 Supp. 21-3419a is hereby amended to read as follows: 21-3419a. (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, *locked down or disrupted as to regular, ongoing activities* as a result of the threat or threats.

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

And by renumbering sections accordingly;

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

On page 3, in line 1, by striking all preceding “of” and inserting “, unlawful attendance”;

following line 39, by inserting the following:

“Sec. 7. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

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

(2) impose the fine applicable to the offense;

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

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

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

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

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

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

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

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

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

(12) suspend imposition of sentence in misdemeanor cases.

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

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

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

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

the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

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

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

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

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

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

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the

law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

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

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

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

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

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 65-4160 or 65-4162, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. ~~2007~~ 2008 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 65-4160, 65-4162 or 65-4164, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

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

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

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

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

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

Sec. 8. K.S.A. 21-4611 is hereby amended to read as follows: 21-4611. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted

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

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

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

(1) For nondrug crimes the recommended duration of probations is:

(A) Thirty-six months for crimes in crime severity levels 1 through 5; and

(B) 24 months for crimes in crime severity levels 6 and 7.

(2) For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.

(3) *Except as otherwise provided*, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, ~~or assignment to a community correctional services program as provided under K.S.A. 75-5291 et seq., and amendments thereto,~~ of up to 12 months in length.

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

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

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

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

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

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

And by renumbering the remaining sections accordingly;

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

On page 13, in line 17, by striking “Such” and inserting “Subject to appropriations therefor, such”; in line 20, following the period by inserting “If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary’s determination regarding the availability of treatment resources shall not be subject to review.”; by striking all in lines 41 through 43;

By striking all on page 14;

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

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

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

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

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

(3) The provisions of this subsection shall not apply to violations of K.S.A. 65-4152, 65-4160 or 65-4162, and amendments thereto.

Sec. 11. K.S.A. 2008 Supp. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

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

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

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

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

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

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

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

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

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to the crime severity scale and the court services officer’s professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

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

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

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

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

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

Sec. 12. K.S.A. 21-4715 is hereby amended to read as follows: 21-4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

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

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

Sec. 13. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a)

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

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

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

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

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

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

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

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

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

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

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

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

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

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

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

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

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

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.

(5) The committee's report concerning enhanced or new interventions shall address:

- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

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

Sec. 14. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714 and 75-5291 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: “AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714 and 75-5291 and repealing the existing sections.”;

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

THOMAS C. OWENS
DEREK SCHMIDT
DAVID HALEY
Conferees on part of Senate

PAT COLLOTON
JOE PATTON
MELODY MCCRAY-MILLER
Conferees on part of House

On motion of Rep. Patton to adopt the conference committee report on **HB 2060**, Rep. Colloton offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as second conferees on the part of the House.

On motion of Rep. Merrick, the House recessed until 3:30 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

MESSAGES FROM THE SENATE

Announcing adoption of **HCR 5023**, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor.

The Senate announces the appointment of Senators Teichman and Kelly to escort the Governor. Also, Senators Barnett and Francisco to escort the Supreme Court.

Also, the Senate accedes to the request of the House for a conference on **HB 2060** and has appointed Senators Owens, D. Schmidt and Haley as second conferees on the part of the Senate.

It being the hour in accordance with **HCR 5023** to meet in joint session with the Senate to hear the message of the Governor, Reps. Aurand, Bethell and Williams escorted President Morris and members of the Senate to seats in the House.

Reps. Shultz, Light and McCray-Miller and Senators Barnett and Francisco escorted the Supreme Court to seats in the House.

Reps. Mast, Horst and Ward and Senators Teichman and Kelly escorted the Governor to the rostrum.

**Governor Mark Parkinson's Complete Text
of Remarks to the Joint Session**

AD ASTRA PER ASPERA

At the outset, I want to thank Speaker Mike O'Neal for granting me the honor to speak with all of you in this spectacular chamber. I had the privilege of serving in the House almost 20 years ago and to be back in this magnificent setting is invigorating.

I also want to acknowledge all the other dignitaries who have taken the time to be here. Thanks to all our legislative leaders: Speaker O'Neal, President Morris, Leader Hensley, Leader Davis. I appreciate all the other legislative leaders for being here and each of you.

I especially want to thank some groups of people who could not be here today: our brave troops fighting in two wars, including our own Melanie Meier; and the men and women of our public health and emergency management teams. From floods to flu, they are protecting communities across the state and I know you join me in thanking them for their continued hard work. Last but not least, I'd like to thank my wife Stacy for being here. We've been best friends, confidants and husband and wife for the last 26 years and she is everything to me.

In this era of political division, we harbor many differences. We will not see eye to eye on every issue. We will not always agree. We will not. But, we will always share one thing: we share, all of us here, a love for the state of Kansas. Today, I've come to tell you all that this common bond will always be stronger than our differences. I have lived here for all of my 51 years and I love the state: our heritage, what we stand for, what we are and what we will become.

I love our origin. I'm proud that we could have chosen to be a free state or a slave state and that we chose to be a free state. I'm proud that our ancestors migrated here from the east coast, not looking for fame or fortune, but rather to protect freedom. I'm so happy that I grew up in Wichita. As a small child, our two blocks seemed as big as the whole world. We explored, and we felt safe, secure and loved. And later I would become grateful for the education that I received at Heights High School and Wichita State University.

I loved the time I spent as a child during the summers in Scott City. The economic engines of the state are all over, but the heart and soul of this state is in the West. As I grew older I spent time in every nook and cranny of the state and learned to love it all: the great heritage of Southeast Kansas and the Northeast, where we now live with its incredible entrepreneurs and opportunities for all Kansans. I love that we are the state of John Brown, William Allen White, Birger Sandzen, Alf Landon, Dwight Eisenhower, and Bob Docking.

Most of all, I love our state motto: Ad Astra Per Aspera. The message that our founders sent us almost 150 years ago has never been more relevant than it is today: though our path may be rife with difficulty, we will reach the stars.

That is why I'm honored and humbled to serve at a time when Kansas is hurting. You all know the numbers. The state and country are in the midst of the longest recession since the 1930's. Tens of thousands of Kansans have lost their jobs, our revenues have plummeted, retirees have seen their accounts dwindle and fear is rampant. In spite of this, my message today is one of optimism.

Throughout history, we have faced challenges that appeared to be insurmountable. The Great Depression, the Dust Bowls and the challenges of two world wars. In each of those occasions, Kansans have not only survived, we have prospered. Make no mistake: we will

face and defeat our current economic challenge in the same way we have in the past: with a determined optimism, rooted in the common spirit that pushes all Kansans to the stars no matter what the obstacles. And when we defeat it we will come out stronger and better than before.

The message of our shared past is clear: our belief is stronger than any doubt; our determination greater than any obstacle; and our passion more furious than any storm.

State government must play a central role in this turnaround. For us to succeed in defeating this challenge, we must do three things. Our immediate need is to balance our state budget in a responsible way. This will require a post-partisan spirit of shared sacrifice.

Our current deficit is \$328 million. Filling that deficit will not be easy. The number is too large to fill it solely with additional budget cuts. Those cuts, on top of the cuts we have already imposed, would jeopardize critical state programs. Cutting these budgets \$328 million would hurt education. But it is more than that. We talk about across the board cuts in numbers and percentages, but behind each of those numbers are real Kansans. Drastic cuts would hurt education, public safety, our corrections system and those that are disabled. And for those who believe business would be benefitted by this approach, let me tell you that drastic cuts would diminish economic development efforts and hurt our ability to attract and retain new business to this state. On the other hand, I recognize that \$328 million is too large a number to fill the hole solely with revenue enhancements. It would be a mistake to raise taxes.

Fortunately, there is a middle ground. We need to share the sacrifice and address the deficit with both responsible budget cuts and revenue enhancements. Let me be very specific. On the revenue side, there are about \$250 million in enhancements that we can make that won't raise a single person's taxes. These include delaying tax cuts, decoupling and recognizing gaming revenue. The good news is that these revenue enhancements don't require us to raise anyone's taxes. Tax cuts would be delayed, but no business or person would see their taxes increase.

Shared sacrifice will then require us to make modest additional cuts to state government. Cuts that will be painful but that will not be crippling. These votes will not be easy. But, they are necessary. And I am confident that you will rise to the occasion and show both the leadership and courage to make the votes to balance this budget.

This shared sacrifice is the Kansas way of life. When we face a crisis in this state, all Kansans join in assisting the recovery. But no group should be forced to bear the burden by themselves. That's not the way Kansas works.

The second action that we need to take as a State is to create and protect jobs. Our unemployment rate has increased from 4 percent to 6.5 percent. Kansans need to know that we are fighting as hard as we can to prevent additional job losses. There are several strategies we have to do this. We must promptly and efficiently put the Recovery Act funds in place. With its investments in education we are protecting jobs. With its funding of new highway programs and energy efficiency programs, we will create jobs. A key priority of this administration will be to continue to get the Recovery fund money working in Kansas as quickly as possible.

We will protect and create jobs by holding on to previous victories we have had with NBAF and the Base realignment and closure process. NBAF was a great victory and now Texas is trying to take it away. My message to Texas is simple: if you interfere with NBAF, not only will we mess with Texas, we will crush your frivolous attempts to take it away.

We will create jobs by aggressively pursuing companies that build on our core competencies. I will work tirelessly with our Department of Commerce to assist in its efforts to increase employment in our agriculture, manufacturing and energy industries.

We will also create jobs for the future. We'll continue our close work with the Kansas Bioscience Authority to solidify our space in the animal health sector. We'll work closely with Kansas University to make sure that KU becomes a National Cancer Institute designated center. We'll also work hard to attract renewable energy companies to the state. Kansas should be a national hub of both wind farms and factories that supply parts to those farms. Working together we will make that happen. This hard work will bear fruit and together we'll protect the jobs of Kansans as we move through this recession.

Finally, in order to turn this economy around, we need to unify the state. The time for typical party politics is over. The challenges are too daunting and the stakes are too high. It's time for all of us, Republicans and Democrats, to forget about party politics. It's time for us to do what our ancestors have done when faced with great adversity. We will roll up our sleeves, work hard, make the tough decisions and move forward. Not as Republicans or Democrats, but as Kansans, to solve the problems we face.

I am confident with the legislative leaders that we have in place we will get this done. In President Morris, Leader Hensley, Speaker O'Neal, and Leader Davis, you have provided the State with outstanding Kansans who have placed the best interest of the State ahead of their own. We will make a great team as we move forward.

I know that we are fixated on the 2010 budget and rightly so. The pain and fear that people are experiencing is real. But there will be brighter days ahead. I've learned in business to not just think about the next year, but to think about five, 10 and even 20 years from now. If we make the right decisions, our long term future will be bright. Bear with me as I tell you the vision I have of our future. I can see it as clearly as I can see you sitting before me today.

In the year 2030, agriculture and manufacturing will thrive in Kansas. China and India will have 600 million new middle class citizens and if we keep our markets open, they will drive demand for our agriculture products and our aircraft for years to come.

In the year 2030, NBAF will have been built and tens of thousands of high paying jobs will populate the corridor between Columbia, Missouri and Manhattan. Kansas will be known as both the Air Capital of the World and the Animal Health Capital of the World. In the year 2030, we will have fully exploited our wind energy resource in Western Kansas. We won't have the impressive 1,000 megawatts of wind power we have now, we'll have 10,000 to 20,000 megawatts of clean, renewable power. Factories will dot the state to supply these wind farms, and a corridor of factories from Wichita to Salina will develop that will make Kansas the renewable energy leader of the country.

In the year 2030, KU will have received National Cancer Institute designation and all Kansans, regardless of income or status will receive the highest quality of cancer care available in the world. In the year 2030, we'll have a growing population, made up primarily by increase in our Latino and Asian American populations. We will recognize that these new populations offer us a tremendous opportunity to fill all the jobs left vacant by retirees and that these new populations offer us a whole new group of consumers. Unlike states that shun these populations, we will recognize them as a great opportunity.

In the year 2030, our K-12 system will be using the latest in technology so that every school child, regardless of where they are from, will receive the same high quality education as every other child in the state. In the year 2030, our regents system will excel. We'll spend our time talking not just about whether our basketball or football programs are in the top 25. We'll spend time talking about whether our medical schools, engineering schools, and undergraduate programs are in the top 25.

All of these things can happen. You can make them happen. If we set aside the petty politics that permeates this country, and instead pull together, this vision of the future isn't just the musings of an aging politician. This vision of prosperity that I've laid before you is our destiny.

I close with a quote from Winston Churchill. During the worst of WWII a reporter asked Churchill if he was worried about how history would be treated. Again, he took no time and quickly responded.

'History will be kind to me, because I intend to write it.'

Churchill said, 'History will be kind to me because I intend to write it.'

Tonight, we open the next great chapter in our state's history. Be certain: the title of that chapter, like so many great ones before it will be *Ad Astra Per Aspera*.

Decades from now, our children and grandchildren and their children will look back and ask how we responded to the greatest crisis in 70 years. Did we panic or lead? Did we retreat to partisan interests or embrace shared sacrifice? Did we bicker or did we set aside party politics to work together as Kansans? I know the answer to each of those questions because I have confidence in each of you. I know that despite our differences, we share love for Kansas.

So, let's not just name this chapter with our great state motto, let's get to work writing a history that all future generations can be proud of. God Bless each of you, this State and our great Country.

On motion of Rep. Merrick, the House adjourned until 1:00 p.m., Friday, May 1, 2009.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

