

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS

Friday, May 1, 2009—9:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Each of the forty Senators
Has thousands of constituents,
Consisting of a wide variety
And deserving of their diligence.

Seeking to be knowledgeable,
Senators have resources
Consisting of lobbyists and research,
Conferees and other sources.

They call on their experience,
And their parties for information
Colleagues are quite helpful,
And the media's observations.

All of them I hope have found
The wisest source of all
Comes from persistent prayer
As on You they call.

You have total knowledge
Of future, present, and past,
And also the right decisions
For every vote that's cast.

Please convince each Senator, Lord,
Before a vote is cast
It has been approved by You,
So a worthy bill passed.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1886—

A RESOLUTION supporting an EcoPartnership between
the city of Wichita, Kansas and the city of Wuxi, China.

WHEREAS, The cities of Wichita, Kansas, United States of America and Wuxi, located in Jiangsu Province in the People's Republic of China, face similar challenges in terms of pursuing environmentally sustainable clean air and water solutions; and

WHEREAS, The two cities have agreed to form an "EcoPartnership," pursuant to the Framework for the Ten Year Cooperation on Energy and Environment between the Government of the United States of America and the Government of the People's Republic of China signed on June 18, 2008; and

WHEREAS, The two cities have mutually agreed to enhance the extent of the Wichita-Wuxi EcoPartnership model to further promote and facilitate economic development and environmental sustainability in both regions; and

WHEREAS, The State of Kansas is interested in clean and sustainable development and strengthening its ties with the country of China: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support the Wichita-Wuxi EcoPartnership, as well as the agreement to expand the model to enhance the information and business exchange piece, in order to facilitate further development and sustainable growth in new and existing industries, including, but not limited to, the areas of agriculture, aviation and energy; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Carolyn McGinn.

On emergency motion of Senator McGinn **SR 1886** was adopted unanimously.

Senators Morris, Vratil, D. Schmidt and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1887—

A RESOLUTION honoring and thanking Emalene G. Correll.

WHEREAS, Emalene Correll served more than 42 years in the Kansas Legislative Research Department, starting work in the Department on September 1, 1966, as a Senior Research Assistant, promoted on November 1, 1970, to Principal Analyst and on June 18, 1974, to Research Associate; and

WHEREAS, Emalene Correll graduated from Topeka High School in 1948 and from the University of Kansas with a Bachelor of Arts degree in Political Science in 1952 and a Masters in Political Science in 1963. In 1954, she received her teaching certificate on the secondary level from Washburn University; and

WHEREAS, Emalene Correll taught government, history, English, economics and sociology at Carbondale High School in 1953-1954 and then from 1954 to 1961 she was a teacher of government, history, English and Spanish for the Topeka Board of Education; and

WHEREAS, In 1961, Emalene Correll went to work for the Kansas Water Resources Board as a Research Assistant while also serving on the State Board of the League of Women Voters; and

WHEREAS, Emalene Correll married Ralph Correll on August 21, 1953, and they were blessed with a daughter Kathleen C. Correll; and

WHEREAS, Emalene Correll was the first woman to serve in the Kansas Legislative Research Department as a professional staff member and one of the first members of the Research Department to staff, on a full time basis, standing committees of the Legislature; and

WHEREAS, During her 42 years of work in the Kansas Legislative Research Department, Emalene Correll staffed a variety of Legislative committees and provided an invaluable contribution to the legislative process in this role; and

WHEREAS, Emalene Correll is known for her encyclopedic knowledge of the subject matter of the committees she staffed, particularly the subject matter of the public health and welfare committees, and for her uncompromising devotion to factual analysis of the issues facing these committees; and

WHEREAS, Emalene Correll set an unparalleled standard for excellence in legislative staffing through her hard work, diligence and devotion to knowledge; and

WHEREAS, Emalene Correll has been an enormous asset to the Kansas Legislature throughout her years of dedicated service, and her contributions to the Kansas Legislative Research Department and to the Kansas Legislature are innumerable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Emalene G. Correll for her many years of dedicated work for the Kansas Legislative Research Department, the Kansas Legislature and the State of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Emalene G. Correll, 2916 SW Arrowhead Road, Topeka, Kansas 66614 and to Kathleen C. Correll, 2013 N. 1600 Road, Lawrence, Kansas 66044.

On emergency motion of Senator Vratil **SR 1887** was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1881, SR 1882, SR 1883, SR 1884, SR 1885 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 1, 2009.

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

AFTERNOON SESSION

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

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **Sub SB 311; SB 336; HB 2060; S Sub for HB 2099; HB 2195; S Sub for HB 2267.**

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

(o) (1) *Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of section 6 of 2009 House Bill No. 2236, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.*

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

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

(B) *Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall*

forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

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

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

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

And by renumbering the remaining sections accordingly;

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

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

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

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

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

By striking all on page 14;

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

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

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

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

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

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

Sec. 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, *prior to such section's repeal, or section 6 of 2009 House Bill No. 2236*, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

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

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

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

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

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

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

Sec. 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 (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

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

Sec. 13. K.S.A. 2008 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. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4642, and amendments thereto; and K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated 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.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, 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.

(3) 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, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, and amendments thereto, 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.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, 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 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, 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 level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, 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, 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, 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 parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the post-release supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole 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, 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) As used in this section, "sexually violent crime" means:

- (A) Rape, K.S.A. 21-3502, and amendments thereto;
- (B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;
- (C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;
- (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;
- (E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;
- (F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;
- (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;
- (H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;
- (I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;
- (J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or
- (K) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section.

"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 Kansas parole 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, and amendments thereto, 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 Kansas parole 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 post-release 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 Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole 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, for 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 Kansas parole 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 the 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 Kansas parole 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 parole board will review the inmates 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 post-release supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear ~~before~~ 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 Kansas parole 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 parole 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 parole 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 parole 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 parole 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.

(k) 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.

(l) The Kansas parole board shall adopt 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 Kansas parole 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; and

(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 parole 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.

(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 Kansas parole 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 Kansas parole board grants the parole of an inmate, the board, within 10 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 the effective date of this act 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 for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, 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 Kansas parole 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 Kansas parole board or the court orders a person to be electronically monitored, the board or court 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 or court 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) *Documents, records and reports from the parole board, reviewed and produced on and after July 1, 2008, through June 30, 2009, concerning factors and rationale used to determine the granting or denial of parole, shall be available to members of the standing senate committee on judiciary and the standing house committee on corrections and juvenile justice, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. The parole board shall provide to such legislative members a summary statement of the factors and rationale used to determine such grant or denial and any correspondence received by the parole board relating to such grant or denial. Documents, records and reports received by the committee*

are confidential and shall not be further disclosed. Such documents, records and reports received shall have information redacted which identifies any person or location, including, but not limited to, a city or county, except this provision shall not apply to the name of the inmate whose records are being reviewed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. If the house of representatives does not have a standing committee on corrections and juvenile justice, the standing committee on judiciary shall have access to such records in the same manner and under the same restrictions as the committee on corrections and juvenile justice.

Sec. 14. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;
- (8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;
- (9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
- (10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;
- (11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;
- (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;
- (13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination

or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; ~~and~~

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto; *and*

(16) *matters permitted to be discussed in a closed or executive meeting pursuant to subsection (w) of K.S.A. 22-3717, and amendments thereto.*

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) *Except as otherwise provided by law, any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

(B) *Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

Sec. 15. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a)

(1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52.127 and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 16. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, 21-4611 and 21-4715 and K.S.A. 2008

Supp. 21-3419a, 21-4704, 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, 21-4714, 21-4714, as amended by section 37 of 2009 House Bill No. 2236, 22-3717, 75-4319 and 75-5291 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: “AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714, 22-3717, 75-4319 and 75-5291 and repealing the existing sections; also repealing K.S.A. 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, and K.S.A. 2008 Supp. 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, and 21-4714, as amended by section 37 of 2009 House Bill No. 2236.”;

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

THOMAS OWENS
DEREK SCHMIDT
DAVID HALEY
Conferees on part of Senate

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

A motion by Senator Haley to reject the Conference Committee Report failed.

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2060**.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Colyer, Donovan, Emler, Holland, Huelskamp, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schoendorf, Wagle.

Nays: Brownlee, Bruce, Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Ostmeyer, Reitz, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

The Conference Committee report was not adopted.

ORIGINAL MOTION

Having voted on the prevailing side in Final Action, Senator Brungardt moved the Senate reconsider its adverse action on **HB 2060**.

Senator Brungardt moved the Senate not adopt the Conference Committee Report on **HB 2060** and a new conference committee be appointed. The motion carried.

President Morris appointed Senators Owens, D. Schmidt and Haley as third conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2267**, 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 35 through 41 and by inserting the following:

“(c) On July 1, 2009, the governor shall appoint the membership of the task force. Any person serving as a member of the task force on June 30, 2009, may be reappointed. The terms of members appointed or reappointed to the task force shall expire on July 1, 2011. Vacancies occurring before the expiration of a term shall be filled in the same manner as the original appointment.”;

On page 4, in line 14, by striking “information” and inserting “certification”;

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

PETE BRUNGARDT
 ROGER P. REITZ
 OLETHA FAUST-GOUDEAU
Conferees on part of Senate

LANCE KINZER
 JEFF WHITHAM
 JANICE L. PAULS
Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **S Sub for HB 2267**.

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

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

The Conference Committee report was adopted.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor and the Speaker of the House to the senate for confirmation, were considered.

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

Brigadier General, Kansas National Guard:

Colonel Alexander Duckworth, serves at the pleasure of the Governor.

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

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

The appointment was confirmed.

On the appointment to the:

Kansas Human Rights Commission:

Jeffrey E. Lewis, term expires January 15, 2012.

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

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

The appointment was confirmed.

On the appointment to the:

Kansas Public Employees' Retirement Board of Trustees:

Michael Braude, term expires January 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-

Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The appointment was confirmed.

On the appointment to the:

Kansas Public Employees' Retirement Board of Trustees:

Rachel Reiber, term expires January 15, 2013.

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

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

The appointment was confirmed.

On the appointment to the:

Kansas Health Policy Authority:

Kenneth L. Daniel, Jr., term expires March 15, 2012.

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

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

The appointment was confirmed.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 336** be passed.

HB 2195 be amended by adoption of the committee amendments, and the bill be passed as amended.

The committee report on **SB 311** recommending a **Sub SB 311** be adopted, and the substitute bill be passed.

The committee report on **HB 2099** recommending a **S Sub for HB 2099** be adopted, and the substitute bill be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **Sub SB 311**, **SB 336**; **S Sub for HB 2099**; **HB 2195** were advanced to Final Action and roll call.

Sub SB 311, An act concerning the state budget; state general fund and special revenue fund expenditures, transfers and ending balance requirements; reduction and allotment procedures; amending K.S.A. 75-3722 and 75-6704 and repealing the existing sections.

On roll call, the vote was: Yeas 24, Nays 16, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Owens, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

The substitute bill passed.

SB 336. An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 16a-6-117, as amended by section 23 of 2009 Senate Bill No. 240, 20-3201, 21-3826, as amended by section 1 of 2009 Senate Bill No. 237, and 72-4423, as amended by section 11 of 2009 House Bill No. 2003, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 Senate Bill No. 275, 8-1567, as amended by section 5 of 2009 Senate Substitute for House Bill No. 2096, 8-2110, as amended by section 1 of 2009 Senate Bill No. 158, 12-5242, 19-101a, 20-367, 22-3716, 25-4156, 25-4169a, 28-172a, as amended by section 15 of 2009 Senate Bill No. 66, 38-2211, 38-2255, as amended by section 6 of 2009 Senate Bill No. 134, 45-221, as amended by section 27 of 2009 House Bill No. 2052, 59-104, as amended by section 19 of 2009 Senate Bill No. 66, 60-1621, as amended by section 22 of 2009 Senate Bill No. 66, 60-2001, as amended by section 23 of 2009 Senate Bill No. 66, 60-4104, as amended by section 1 of 2009 Substitute for Senate Bill No. 28, 61-2704, as amended by section 25 of 2009 Senate Bill No. 66, 61-4001, as amended by section 26 of 2009 Senate Bill No. 66, 65-1643, 65-2878, 66-2005, 72-6448, 75-7c04, as amended by section 2 of 2009 House Bill No. 2308, 75-7427, 76-3110, 79-213, 79-5a27 and 79-32,117 and section 16 of 2009 House Bill No. 2236 and repealing the existing sections; also repealing K.S.A. 20-3201, as amended by section 1 of 2009 House Bill No. 2111, 21-3826, as amended by section 27 of 2009 House Bill No. 2236, 65-4142, as amended by section 1 of 2009 House Bill No. 2059, and 76-3110, as amended by section 36 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 House Bill No. 2152, 8-1567, as amended by section 19 of 2009 House Bill No. 2236, 8-2110, as amended by section 3 of 2009 Senate Bill No. 66, 12-1773a, 12-5242a, 12-5242b, 19-101m, 20-376, as amended by section 2 of 2009 House Bill No. 2111, 22-3716a, 25-4156a, 25-4169b, 28-172a, as amended by section 3 of 2009 House Bill No. 2111, 38-2211a, 38-2255, as amended by section 47 of 2009 House Bill No. 2236, 39-756d, 45-221, as amended by section 2 of 2009 Senate Bill No. 87, 45-229b, 59-104, as amended by section 4 of 2009 House Bill No. 2111, 60-1621, as amended by section 5 of 2009 House Bill No. 2111, 60-2001, as amended by section 6 of 2009 House Bill No. 2111, 60-2102a, 60-2403a, 60-4104, as amended by section 51 of 2009 House Bill No. 2236, 61-2704, as amended by section 7 of 2009 House Bill No. 2111, 61-3003a, 61-4001, as amended by section 8 of 2009 House Bill No. 2111, 65-1643b, 65-2878b, 66-2005a, 72-6433c, 72-6448, as amended by section 1 of 2009 House Bill No. 2002, 75-7c04, as amended by section 60 of 2009 House Bill No. 2236, 75-7427a, 79-213e, 79-5a27a and 79-32,117m and section 1 of 2009 Senate Substitute for House Bill No. 2126.

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

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

The bill passed.

S Sub for HB 2099. An act concerning open records; amending K.S.A. 2008 Supp. 45-221, as amended by section 27 of 2009 House Bill No. 2052 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-221, as amended by section 2 of 2009 Senate Bill No. 87.

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

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

The substitute bill passed.

HB 2195. An act concerning state records; relating to maintenance and certification of electronic records; concerning electronic court documents; amending K.S.A. 45-406, 59-

29a19, 59-29b67, 59-29b71, 59-2967, 59-2971 and 75-3519 and K.S.A. 2008 Supp. 38-2305 and 59-29a08 and repealing the existing sections.

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

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

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Monday, May 4, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

