

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 5, 2021, 10:00 a.m.

The Senate was called to order by Vice President Rick Wilborn.
The roll was called with 40 senators present.
Invocation by Reverend Cecil T. Washington:

Direction From The Ultimate Law Giver
Proverbs 29:18, Romans 7:7, Isaiah 5:20, Acts 5:1-10

Lord, without laws, without good laws, laws that come from You, in Proverbs 29:18, You declare that people will be out of control and going wild. But when we receive Your laws and follow them, we will experience the delights and the joys of life.

By Divine determination, You have put all of us in these chambers: Senators, secretaries, security, staff, in every capacity together to consider Your laws in fashioning the laws that flow from here.

According to Your Word in Romans 7:7, You gave us Your laws to use as a mirror so we could see for ourselves when we were going wrong. Like the pilots need their instruments to guide them in their flight, we need the principles of Your Laws to guide us in right decisions. Thank You Lord for the guidance You give us. Now keep us in alignment, so we don't experience the judgment, the condemnation You mention in Isaiah 5:20 where we're calling wickedness as decent, and calling that which is excellent as appalling.

As it was with Ananias and his wife Sapphira, in Acts 5, they thought that lying and being deceitful was the way to go until You showed them otherwise. Lord, You're yearning for a people of truth...of integrity! You said it's a wonderful thing for people to know and to keep Your laws. Help us then to realize that we can't know them and be blessed by them unless we keep them.

Therefore, as laws, policies and procedures are being studied, prompt us to regularly check the Mirror of Your Word so we can get things right, so we can avoid duplicity and be known as people trying to follow the heart of God!

My appeal to You dear Lord, is In the precious Name of Jesus, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 314, AN ACT reconciling conflicting amendments to certain statutes; amending K.S.A. 66-104, as amended by section 1 of 2021 House Bill No. 2367, 75-5133 and 79-

3234 and K.S.A. 2020 Supp. 8-2110, 8-2118, as amended by section 6 of 2021 Senate Bill No. 67, 45-229, as amended by section 12 of 2021 House Bill No. 2390, 58-652, as amended by section 1 of 2021 Senate Bill No. 103, and 60-5508, as amended by section 6 of 2021 Senate Bill No. 283, and repealing the existing sections; also repealing K.S.A. 22-4514a, as amended by section 1 of 2021 Senate Bill No. 16, 66-104, as amended by section 1 of 2021 House Bill No. 2145, 75-3728c, as amended by section 2 of 2021 Senate Bill No. 16, 75-5133d, 76-721, as amended by section 3 of 2021 Senate Bill No. 16, 79-3233b, as amended by section 4 of 2021 Senate Bill No. 16, and 79-3234d and K.S.A. 2020 Supp. 8-2110b, 8-2118c, 39-1431b, 45-229, as amended by section 5 of 2021 House Bill No. 2162, 45-229, as amended by section 36 of 2021 House Bill No. 2391, 58-652, as amended by section 39 of 2021 Senate Bill No. 106, and 60-5508, as amended by section 3 of 2021 House Bill No. 2126, by Committee on Ways and Means.

ORIGINAL MOTION

Senator Alley 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: **SB 39, SB 47, SB 60, SB 170; Sub SB 238; HB 2026, HB 2077, HB 2079, HB 2121, HB 2158.**

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2026** submits the following report:

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

On page 2, following line 20, by inserting:

"Sec. 2. K.S.A. 2020 Supp. 21-6201 is hereby amended to read as follows: 21-6201. (a) Riot is five or more persons acting together and without lawful authority engaging in any:

(1) Use of force or violence which produces a breach of the public peace; or
 (2) threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution.

(b) Incitement to riot is by words or conduct knowingly urging others to engage in riot as defined in subsection (a) under circumstances which produce a clear and present danger of injury to persons or property or a ~~branch~~ breach of the public peace.

(c) (1) Riot is a:

(A) Class A person misdemeanor, except as provided in subsection (c)(1)(B); and

(B) severity level 8, person felony if the riot occurs in a correctional facility.

(2) Incitement to riot is a:

(A) Severity level 8, person felony, except as provided in subsection (c)(2)(B); and

(B) severity level 6, person felony if the incitement to riot occurs in a correctional facility.

(d) As used in this section, "correctional facility" means a "correctional institution" as defined in K.S.A. 75-5202, and amendments thereto, or a jail.

Sec. 3. K.S.A. 2020 Supp. 21-6322 is hereby amended to read as follows: 21-6322.

(a) Unlawfully tampering with electronic monitoring equipment is, knowingly and without authorization, removing, disabling, altering, tampering with, damaging or

destroying any electronic monitoring equipment used pursuant to court ordered supervision or as a condition of post-release supervision or parole.

(b) Unlawfully tampering with electronic monitoring equipment is a:

(1) Severity level—6 8, nonperson felony in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision or parole for any felony; and

(2) class A nonperson misdemeanor in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision or parole for any misdemeanor or used pursuant to court-ordered supervision in any civil case.

Sec. 4. K.S.A. 2020 Supp. 21-6610 is hereby amended to read as follows: 21-6610.

(a) When a defendant is placed on parole by the district court, on probation, assigned to a community correctional services program by a district court or under suspended sentence and such defendant is permitted to go from the judicial district of that court, supervision over the defendant may be transferred from that judicial district to another with the concurrence of the receiving chief court services officer, or if in a community corrections services program, by the concurrence of the director of the receiving program.

(b) The district court from which the defendant is on parole, probation, community correctional services program or suspended sentence may retain jurisdiction of the defendant.

(c) When a defendant described in subsection (a) is sentenced pursuant to K.S.A. 2020 Supp. 21-6824, and amendments thereto, the district court from which the defendant is on parole, on probation, assigned to a community correctional services program or under suspended sentence may transfer jurisdiction of the defendant with the concurrence of the receiving district court and all parties.

Sec. 5. K.S.A. 2020 Supp. 21-6824 is hereby amended to read as follows: 21-6824.

(a) There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders, convicted of a felony violation of K.S.A. 2020 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense is classified in grid blocks:

(1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes, such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction, if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes, and the court finds and sets forth with particularity the reasons for finding that the safety of the

members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(b) As a part of the presentence investigation pursuant to K.S.A. 2020 Supp. 21-6813, and amendments thereto, offenders who meet the requirements of subsection (a), unless otherwise specifically ordered by the court, shall be subject to:

(1) A drug abuse assessment which shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and

(2) a criminal risk-need assessment. The criminal risk-need assessment shall assign a ~~high or low~~ risk status to the offender.

(c) If the offender is assigned a ~~high~~ risk status as determined by the drug abuse assessment performed pursuant to subsection (b)(1) and a ~~moderate or high~~ risk status as determined by the criminal risk-need assessment performed pursuant to subsection (b)(2) that meets the criteria for participation in a drug abuse treatment program as determined by the Kansas sentencing commission, the sentencing court shall commit the offender to treatment in a drug abuse treatment program until the court determines the offender is suitable for discharge by the court. The term of treatment shall not exceed 18 months. The court may extend the term of probation, pursuant to K.S.A. 2020 Supp. 21-6608(c)(3), and amendments thereto. The term of treatment may not exceed the term of probation.

(d) (1) Offenders who are committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services.

(2) Offenders who are not committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services or court services based on the result of the criminal risk assessment.

(3) If the offender is permitted to go from the judicial district of the sentencing court, the court may, pursuant to K.S.A. 2020 Supp. 21-6610, and amendments thereto:

- (A) Transfer supervision of the offender from that judicial district to another; and
 (B) either transfer or retain jurisdiction of the offender.

(e) Placement of offenders under subsection (a)(2) shall be subject to the departure sentencing statutes of the revised Kansas sentencing guidelines act.

(f) (1) Offenders in drug abuse treatment programs shall be discharged from such program if the offender:

(A) Is convicted of a new felony; or

(B) 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.

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of K.S.A. 2020 Supp. 21-6604(n), and amendments thereto.

(g) As used in this section, "mental health professional" includes licensed social workers, persons licensed to practice medicine and surgery, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the secretary of corrections to treat offenders pursuant to K.S.A. 75-52,144, and amendments thereto.

(h) (1) Offenders who meet the requirements of subsection (a) shall not be subject to the provisions of this section and shall be sentenced as otherwise provided by law, if such offenders:

(A) Are residents of another state and are returning to such state pursuant to the

interstate corrections compact or the interstate compact for adult offender supervision;
or

(B) are not lawfully present in the United States and being detained for deportation;
or

(C) do not meet the risk assessment levels provided in subsection (c).

(2) Such sentence shall not be considered a departure and shall not be subject to appeal.

(i) The court may order an offender who otherwise does not meet the requirements of subsection (c) to undergo one additional drug abuse assessment while such offender is on probation. Such offender may be ordered to undergo drug abuse treatment pursuant to subsection (a) if such offender is determined to meet the requirements of subsection (c). The cost of such assessment shall be paid by such offender.";

On page 7, in line 25, by striking "moderate"; in line 26, by striking all before "by" and inserting "an appropriate risk level as determined by the Kansas sentencing commission";

On page 11, in line 32, after "Supp." by inserting "21-6201, 21-6322, 21-6610, 21-6824 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the semicolon by inserting "clarifying supervision of offenders and authorizing the sentencing commission to determine risk levels for participation in the certified drug abuse treatment program; increasing criminal penalties for riot and incitement to riot in a correctional facility; modifying criminal penalties for unlawfully tampering with electronic monitoring equipment;"; in line 5, after "Supp." by inserting "21-6201, 21-6322, 21-6610, 21-6824 and";

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

KELLIE WARREN

RICK WILBORN

DAVID HALEY

Conferees on part of Senate

J. RUSSELL JENNINGS

STEPHEN OWENS

DENNIS HIGHBERGER

Conferees on part of House

Senator Warren moved the Senate adopt the Conference Committee Report on **HB 2026**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claey's, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Gossage, Haley, Hawk, Hilderbrand, Holland, Kerschen, Kloos, Longbine, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Warren, Wilborn.

Present and Passing: Francisco, Holscher, Ware.

Absent or Not Voting: Masterson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2077** 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 6, following line 18, by inserting:

"Sec. 3. K.S.A. 74-7301 is hereby amended to read as follows: 74-7301. As used in this act:

(a) "Allowance expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training and other remedial treatment and care and for the replacement of items of clothing or bedding which were seized for evidence. ~~Such term~~ "Allowance expense" includes a total charge not in excess of \$5,000 for expenses in any way related to funeral, cremation or burial; but ~~such term~~ "allowance expense" shall not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless other accommodations are medically required. ~~Such term~~ "Allowance expense" includes a total charge not in excess of \$1,000 for expenses in any way related to crime scene cleanup.

(b) "Board" means the crime victims compensation board established under K.S.A. 74-7303, and amendments thereto.

(c) "Claimant" means any of the following persons claiming compensation under this act:

- (1) A victim;
- (2) a dependent of a deceased victim;
- (3) a third person other than a collateral source; or
- (4) an authorized person acting on behalf of any of them.

(d) "Collateral source" means the net financial benefit, after deduction of taxes, legal fees, costs, expenses of litigation, liens, offsets, credits or other deductions, from a source of benefits or advantages for economic loss otherwise reparable under this act which the victim or claimant has received, or which is readily available to the victim or claimant, from:

- (1) The offender;
- (2) the government of the United States or any agency thereof, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this act;
- (3) social security, medicare and medicaid;
- (4) state-required temporary nonoccupational disability insurance;
- (5) workers' compensation;
- (6) wage continuation programs of any employer;
- (7) proceeds of a contract of insurance payable to the victim for loss which the victim sustained because of the criminally injurious conduct;
- (8) a contract providing prepaid hospital and other health care services or benefits for disability; or

(9) damages awarded in a tort action.

(e) "Criminally injurious conduct" means conduct that: (1) (A) Occurs or is attempted in this state or occurs to a person whose domicile is in Kansas who is the victim of a violent crime which occurs in another state, possession, or territory of the United States of America may make an application for compensation if:

(i) The crimes would be compensable had it occurred in the state of Kansas; and

(ii) the places the crimes occurred are states, possessions or territories of the United States of America not having eligible crime victim compensation programs;

(B) poses a substantial threat or personal injury or death; and

(C) either is punishable by fine, imprisonment or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; or

(2) is an act of terrorism, as defined in 18 U.S.C. § 2331, or a violent crime that posed a substantial threat or caused personal injury or death, committed outside of the United States against a person whose domicile is in Kansas, except that criminally injurious conduct does not include any conduct resulting in injury or death sustained as a member of the United States armed forces while serving on active duty.

~~Such term shall~~ "Criminally injurious conduct" does not include conduct arising out of the ownership, maintenance or use of a motor vehicle, except for violations of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or violations of municipal ordinances or county resolutions prohibiting the acts prohibited by those statutes, or violations of K.S.A. 8-1602, and amendments thereto, K.S.A. 21-3404, 21-3405 ~~and or~~ 21-3414, prior to their repeal, or K.S.A. 2020 Supp. 21-5405, 21-5406 ~~and K.S.A. 2020 Supp. or~~ 21-5413(b), and amendments thereto, or when such conduct was intended to cause personal injury or death.

(f) "Dependent" means a natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the victim's death.

(g) "Dependent's economic loss" means loss after decedent's death of contributions of things of economic value to the decedent's dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death.

(h) "Dependent's replacement services loss" means loss reasonably incurred by dependents after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death and not subtracted in calculating dependent's economic loss.

(i) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss and dependent's replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(j) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment and nonpecuniary damage.

(k) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of self or family, if such person had not

been injured.

(l) "Work loss" means loss of income from work the injured person would have performed if such person had not been injured, and expenses reasonably incurred by such person in obtaining services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by such person or by income such person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(m) "Victim" means a person who suffers personal injury or death as a result of:

- (1) Criminally injurious conduct;
- (2) the good faith effort of any person to prevent criminally injurious conduct; ~~or~~
- (3) the good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct; or
- (4) witnessing a violent crime when the person was 16 years of age or younger at the time the crime was committed.

(n) "Crime scene cleanup" means removal of blood, stains, odors or other debris caused by the crime or the processing of the crime scene.

Sec. 4. K.S.A. 2020 Supp. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the crime victims compensation division created by K.S.A. 75-773, and amendments thereto.

(b) (1) Except as otherwise provided in this subsection, compensation may not be awarded unless an application has been filed with the division within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes:

~~(1) indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2020 Supp. 21-5504(b), and amendments thereto; (4)~~

~~(A) Enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto; (9)~~

~~(B) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(a), and amendments thereto; (10)~~

~~(C) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto; or (11) commercial sexual exploitation of a child as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto~~

~~(D) a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto.~~

~~(2) Compensation for mental health counseling may be awarded if a claim is filed~~

~~within two years of: (1) Testimony, to a claimant who is, or will be, required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the claimant or the victim on whose behalf the claim is made; or (2) notification, to a claimant who is notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the claimant or the victim on whose behalf the claim is made, or is notified of the identification of a suspected offender who victimized the claimant or the victim on whose behalf the claim is made, whichever occurs later to a:~~

~~(A) Victim, as defined in K.S.A. 74-7301(m)(4), and amendments thereto, if the board finds there was good cause for the failure to file within the time specified in this subsection and the claim is filed before the victim turns 19 years of age; or~~

~~(B) victim of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, if the board finds there was good cause for the failure to file within the time specified in this subsection and:~~

~~(i) The claim is filed with the division within 10 years of the date such crime was committed; or~~

~~(ii) if the victim was less than 18 years of age at the time such crime was committed, the claim is filed within 10 years of the date the victim turns 18 years of age.~~

~~(3) For all other incidents of criminally injurious conduct, compensation may not be awarded unless the claim has been filed with the division within two years after the injury or death upon which the claim is based.~~

~~(c) Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.~~

~~(e)(d) Compensation otherwise payable to a claimant shall be reduced or denied, to the extent, if any that the:~~

~~(1) Economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources;~~

~~(2) board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; or~~

~~(3) board deems reasonable, because the victim was likely engaging in, or attempting to engage in, unlawful activity at the time of the crime upon which the claim for compensation is based. This subsection shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.~~

~~(d)(e) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider all relevant factors, including:~~

~~(1) The number of the claimant's dependents;~~

~~(2) the usual living expenses of the claimant and the claimant's family;~~

~~(3) the special needs of the claimant and the claimant's dependents;~~

~~(4) the claimant's income and potential earning capacity; and~~

~~(5) the claimant's resources.~~

~~(e)~~(f) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the board finds there was good cause for the failure to report within that time.

~~(f)~~(g) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

~~(g)~~(h) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or K.S.A. 2020 Supp. 21-5604, and amendments thereto, or cases of sex offenses established in article 35 of chapter 21, of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2020 Supp. 21-6419 through 21-6422, and amendments thereto, or human trafficking or aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2020 Supp. 21-5426, and amendments thereto, compensation may not be awarded if the economic loss is less than \$100.

~~(h)~~(i) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed \$400 per week or actual loss, whichever is less.

~~(i)~~(j) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed \$25,000 in the aggregate.

~~(j)~~(k) Nothing in subsections ~~(e)(2), (e)(3), (e) and (f) (d)(2), (d)(3), (f) and (g)~~ shall be construed to reduce or deny compensation to a victim of human trafficking or aggravated human trafficking, as defined in K.S.A. 2020 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto, who was 18 years of age or younger at the time the crime was committed and is otherwise qualified for compensation.";

Also on page 6, in line 19, before "K.S.A" by inserting "K.S.A. 74-7301 and"; also in line 19, by striking "and" and inserting a comma; also in line 19, before "are" by inserting "and 74-7305";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "and" and inserting a comma; also in line 1, after "commissions" by inserting "and boards"; in line 6, after the semicolon by inserting "relating to the crime victims compensation board; applications for compensation and mental health counseling; adding certain children to the definition of victim;"; also in line 6, after "amending" by inserting "K.S.A. 74-7301 and"; in line 7, by striking the first "and" and inserting a comma; also in line 7, after "21-6902" by inserting "and 74-7305";

KELLIE WARREN

RICK WILBORN

DAVID HALEY

Conferees on part of Senate

J. RUSSELL JENNINGS

STEPHEN OWENS

DENNIS HIGHBERGER

Conferees on part of House

Senator Warren moved the Senate adopt the Conference Committee Report on **HB 2077**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Masterson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2079** submits the following report:

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

On page 1, following line 11, by inserting:

"New Section 1. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the Kansas fights addiction act.

New Sec. 2. As used in sections 1 through 7, and amendments thereto:

- (a) "Act" means the Kansas fights addiction act.
- (b) "Covered conduct" means any conduct covered by opioid litigation that resulted in payment of moneys into the Kansas fights addiction fund.
- (c) "Defendant" means a defendant or putative defendant in any opioid litigation.
- (d) "Moneys that are received" includes damages, penalties, attorney fees, costs, disbursements, refunds, rebates or any other monetary payment made or paid by any defendant by reason of any judgment, consent decree or settlement, after payment of any costs or fees allocated by court order.
- (e) "Municipality" means the same as defined in K.S.A. 75-6102, and amendments thereto.
- (f) "Opioid litigation" means any civil lawsuit, demand or settlement, including any settlement in lieu of litigation, alleging unlawful conduct in the manufacturing, marketing, distribution, prescribing or other use of opioid medications and asserting or resolving claims of the state or any municipality.
- (g) "Qualified applicant" means any state entity, municipality or not-for-profit private entity that provides services for the purpose of preventing, reducing, treating or otherwise abating or remediating substance abuse or addiction and that has released its legal claims arising from covered conduct against each defendant that is required by opioid litigation to pay into the fund.
- (h) "State" means the state of Kansas, including any agency or official thereof.
- (i) "Sunflower foundation" means the sunflower foundation: health care for Kansas, established pursuant to the settlement agreement entered into by the attorney general in the action filed by blue cross and blue shield of Kansas, inc., in the district court of Shawnee county, Kansas, case No. 97CV608.

New Sec. 3. (a) Notwithstanding any other provision of law to the contrary, the

attorney general shall remit to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, all moneys that are received by the state pursuant to opioid litigation in which the attorney general is involved that is dedicated by the terms of such litigation for the abatement or remediation of substance abuse or addiction. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury. The state treasurer shall credit 75% of each such deposit to the Kansas fights addiction fund and 25% of each such deposit to the municipalities fight addiction fund.

(b) There is hereby established in the state treasury the Kansas fights addiction fund, and such fund shall be administered by the attorney general. Except as provided in subsection (c), moneys in the Kansas fights addiction fund shall be expended subject to any agreement authorized under section 4(d), and amendments thereto, for grants approved by the Kansas fights addiction grant review board created by section 4, and amendments thereto, to qualified applicants for projects and activities that prevent, reduce, treat or mitigate the effects of substance abuse and addiction. Any such expenditure for a grant shall not be used to supplant any other source of funding. No moneys shall be expended from the Kansas fights addiction fund for the payment of litigation costs, expenses or attorney fees related to opioid litigation.

(c) On July 1 of each year, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$200,000 from the Kansas fights addiction fund to the prescription monitoring program fund established by section 8, and amendments thereto. For any fiscal year, if there are insufficient unencumbered moneys in the Kansas fights addiction fund to make such transfer, no transfer shall be made under this subsection for such fiscal year.

(d) (1) There is hereby established in the state treasury the municipalities fight addiction fund, and such fund shall be administered by the attorney general to disburse funds to municipalities. Moneys in the municipalities fight addiction fund shall be expended subject to an agreement between the attorney general, the Kansas association of counties and the league of Kansas municipalities for projects and activities that prevent, reduce, treat or mitigate the effects of substance abuse and addiction or to reimburse the municipality for previous expenses related to substance abuse mitigation or arising from covered conduct. Moneys may also be used to reimburse municipalities for the payment of litigation costs, expenses or attorney fees related to opioid litigation, except that a municipality shall first seek payment from applicable outside settlement sources or settlement fee funds prior to seeking payment from the municipalities fight addiction fund.

(2) An agreement between the attorney general, the Kansas association of counties and the league of Kansas municipalities shall determine the method for disbursing moneys from the fund, and such moneys shall be disbursed to municipalities that have not filed opioid litigation and municipalities that have filed opioid litigation and have entered into an agreement with the attorney general prior to January 1, 2022, that releases the municipality's legal claims arising from covered conduct to the attorney general and assigns any future legal claims arising from covered conduct to the attorney general.

(e) All expenditures from the Kansas fights addiction fund and the municipalities fight addiction fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports pursuant to vouchers approved by the attorney

general or the attorney general's designee.

New Sec. 4. (a) There is hereby created under the jurisdiction of the attorney general the Kansas fights addiction grant review board. At least one member of such board shall reside in each of the state's congressional districts. Each member shall serve at the pleasure of the appointing authority. Such board shall be composed of 11 members who have expertise in the prevention, reduction, treatment or mitigation of the effects of substance abuse and addiction, as follows:

(1) One member appointed by the attorney general to be designated as chairperson of the board;

(2) one member appointed by the governor;

(3) one member appointed by the president of the senate;

(4) one member appointed by the speaker of the house of representatives;

(5) one member appointed by the minority leader of the senate;

(6) one member appointed by the minority leader of the house of representatives;

(7) one member appointed by the league of Kansas municipalities;

(8) one member appointed by the Kansas association of counties;

(9) one member appointed by the Kansas county and district attorneys association;

(10) one member appointed by the association of community mental health centers of Kansas; and

(11) one member appointed by the behavioral sciences regulatory board.

(b) The board shall receive and consider applications for grants of money from the Kansas fights addiction fund. Not fewer than six members of the board voting in the affirmative shall be necessary to approve each grant, and each member shall have one vote. The board may adopt rules and procedures for its operation, conduct hearings, receive testimony and gather information to assist in its powers, duties and functions under this act.

(c) In awarding grants, the board:

(1) Shall take care to support services throughout the state and shall ensure not less than $\frac{1}{8}$ of the total amount of moneys granted each calendar year shall be for services in each of the state's congressional districts;

(2) shall take into account science and data-driven substance abuse prevention reduction, treatment or mitigation strategies;

(3) shall consult with the Kansas prescription drug and opioid advisory committee, the department of health and environment, the insurance department and other appropriate public and private entities to ensure coordination of drug abuse and addiction prevention and mitigation efforts throughout the state;

(4) shall approve grants only in compliance with the requirements of section 3, and amendments thereto;

(5) shall consider the sustainability of programming after grant funds are exhausted;

(6) may establish conditions for the award of grants and require assurance and subsequent review to ensure such conditions are satisfied;

(7) may give preference to qualified applicants that are not otherwise seeking or receiving funds from opioid litigation; and

(8) may give preference to grants that expand availability of certified drug abuse treatment programs authorized by K.S.A. 2020 Supp. 21-6824, and amendments thereto.

(d) (1) The attorney general shall provide administrative support for the board and shall administer, monitor and assure compliance with conditions on grants awarded.

(2) To carry out the duties and responsibilities under paragraph (1), the attorney general may enter into an agreement with the sunflower foundation to provide such administration, monitoring and assurance of compliance. Such agreement may:

(A) Provide for the attorney general to periodically transfer moneys from the Kansas fights addiction fund to the sunflower foundation. The sunflower administration shall administer any such moneys in a manner consistent with this act and with grants approved by the board. If an agreement authorized by this subsection is in effect, the attorney general may transfer moneys from the Kansas fights addiction fund to the sunflower foundation pursuant to such agreement;

(B) provide for a reasonable fee or other compensation for the sunflower foundation for services related to this act;

(C) make provision for the use of any earnings on moneys transferred to the sunflower foundation pursuant to this act and invested by the sunflower foundation; and

(D) contain other provisions as may be reasonably necessary and appropriate to carry out the provisions of this act.

(3) The attorney general may take any action necessary to ensure the greatest possible recovery from opioid litigation and to seek funds for the Kansas fights addiction fund and the municipalities fight addiction fund.

(e) Members of the board shall not receive compensation or expenses for serving on the board. Each member shall file a statement of substantial interest as provided in K.S.A. 46-248 through 46-252, and amendments thereto. No member shall participate in the consideration of any grant application for which such member has a conflict of interest.

New Sec. 5. The attorney general and each municipality shall be solely responsible for paying all costs, expenses and attorney fees arising from opioid litigation brought under their respective authorities, including any attorney fees owed to private legal counsel, and may seek payment or reimbursement of such costs, expenses and attorney fees from moneys not deposited in the Kansas fights addiction fund.

New Sec. 6. (a) Except as provided by subsection (b), on and after January 1, 2021, no municipality shall file or become a party to opioid litigation in any court without the prior approval of the attorney general. Any municipality that filed or became a party to opioid litigation on or after January 1, 2021, through the effective date of the Kansas fights addiction act shall withdraw from such opioid litigation, unless such municipality receives approval from the attorney general to maintain such opioid litigation.

(b) This section shall not apply to or affect any municipality that filed or became a party to opioid litigation in court prior to January 1, 2021.

New Sec. 7. Not later than March 1 of each year, the Kansas fights addiction grant review board shall submit to the speaker of the house of representatives, the president of the senate, the governor and the attorney general a report of the board's activities during the prior calendar year, including:

(a) An accounting of moneys deposited into and expended from the Kansas fights addiction fund;

(b) a summary of each approved grant, including the name and a detailed description of the qualified applicant, the amount granted, the justification for the grant with a detailed description of the grant's intended use and any other relevant

information the board deems appropriate;

(c) an explanation of how the board's actions during the year have complied with the requirements of this act; and

(d) any other relevant information the board deems appropriate.

New Sec. 8. (a) There is hereby established in the state treasury the prescription monitoring program fund. Such fund shall be administered by the president of the state board of pharmacy or the president's designee. All expenditures from the prescription monitoring program fund shall be for the purpose of operating the prescription monitoring program that is established in accordance with the prescription monitoring program act. All expenditures from the prescription monitoring program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the state board of pharmacy or the president's designee.

(b) This section shall be a part of and supplemental to the prescription monitoring program act.":

Also on page 1, in line 33, by striking "2" and inserting "10";

On page 15, following line 35, by inserting:

"Sec. 29. K.S.A. 75-759 is hereby amended to read as follows: 75-759. (a) (1) A notice offering help to victims of human trafficking shall be accessible on the official website of the attorney general, the official website of the department for children and families and the official website of the department of labor, ~~and may~~.

(2) The notice described in this subsection shall be posted in a prominent and accessible location in workplaces any place required to post notices pursuant to:

(A) The Kansas act against discrimination, K.S.A. 44-1012, and amendments thereto;

(B) the Kansas age discrimination in employment act, K.S.A. 44-1114, and amendments thereto;

(C) the Kansas child labor law, K.S.A. 38-605, and amendments thereto;

(D) the employment security law and rules and regulations adopted under the employment security law; or

(E) the workers compensation act and rules and regulations adopted under the workers compensation act.

(3) The notice described in this subsection shall be posted in a location visible to members of the public in the following public places:

(A) Sexually oriented businesses as defined by K.S.A. 12-770, and amendments thereto;

(B) massage parlors;

(C) healthcare facilities;

(D) convenience stores and truck stops; and

(E) rest areas and visitors centers under state supervision or control.

(b) The notice shall provide such information attorney general shall adopt rules and regulations prescribing the content, size and other characteristics of such notices as the attorney general determines appropriate to help and support victims of human trafficking, including, but not limited to, information regarding the national human trafficking hotline as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave—whether it is commercial sex, housework, farm work or any other activity—call

the toll-free National Human Trafficking Hotline at 1-888-373-7888 to access help and services. The toll-free hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a nonprofit, nongovernmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information."

(c) The notice described in this section shall be made available in English, Spanish, and, if requested by an employer, another language.

(d) The secretary of labor, in consultation with the attorney general, shall develop and implement an education plan to raise awareness among Kansas employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. ~~On or before February 1, 2014, the secretary shall report to the standing committees on judiciary in the senate and the house of representatives, respectively, on the progress achieved in developing and implementing the notice requirement and education plan required by this section."~~

Also on page 15, in line 38, by striking the first "and" and inserting a comma; also in line 38, after "75-458" by inserting "and 75-759"; in line 41, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "enacting the Kansas fights addiction act; prescribing powers, duties and functions of the attorney general related thereto; providing for the expenditure of moneys recovered in opioid litigation; transferring a portion of such moneys annually for the operation of the prescription monitoring program; establishing a grant program to address the effects of substance abuse and addiction; Kansas fights addiction grant review board; Kansas fights addiction fund, municipalities fight addiction fund and prescription monitoring program fund; relating to"; in line 6, after the semicolon by inserting "requiring certain businesses and public places to post notices offering help to victims of human trafficking"; in line 8, by striking the first "and" and inserting a comma; also in line 8, after "75-458" by inserting "and 75-759";

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

RICK BILLINGER

J.R. CLAEYS

TOM HAWK

Conferees on part of Senate

FRED PATTON

BRADLEY RALPH

JOHN CARMICHAEL

Conferees on part of House

Senator Billinger moved the Senate adopt the Conference Committee Report on **HB 2079**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Masterson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2121** submits the following report:

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

On page 1, following line 11, by inserting:

"Section 1. K.S.A. 2020 Supp. 8-246 is hereby amended to read as follows: 8-246.

(a) If a driver's license issued under the provisions of this act is lost or destroyed, or if a new name is acquired, the person to whom such driver's license was issued may obtain a replacement upon:

(1) Furnishing satisfactory proof of the loss, destruction or name change to the division, including an affidavit stating the circumstances of the loss, destruction or name change;

(2) payment of a fee of \$8; and

(3) furnishing proof of the person's identity as provided in subsection (b). The driver's license examiner also shall compare the applicant with the division's existing information and facial image database.

(b) For the purposes of obtaining a replacement driver's license, proof of a person's identity shall include at least two of the following documents, one of the documents shall bear the person's signature and one of the documents shall bear the person's age or one of the documents shall bear the person's signature and age:

(1) Military identification card;

(2) military dependent identification card;

(3) military discharge papers;

(4) military DD214;

(5) an original or certified copy of a state issued birth certificate;

(6) marriage license;

(7) medicare identification card;

(8) certified copy of court order specifying a change of name of the person;

(9) commercially produced school yearbook with photograph of the person, and the book is less than five years old;

(10) an official passport issued by any country;

(11) alien registration documents issued by the United States;

(12) expired or current driver's license or identification card issued by the Kansas division of vehicles or an expired or current driver's license or identification card of another state issued by similar authority, and for any document in this ~~item~~ paragraph the document must bear a photograph of the person;

(13) student identification card bearing the photograph of the person;

(14) employee identification card bearing the photograph of the person;
 (15) a copy of any federal or state income tax return bearing the signature of the person;~~or~~

(16) an identification certificate issued by the department of corrections to an offender under the supervision of the secretary of corrections;or

(17) an identification certificate issued by a court services or community corrections agency to an offender under the probation supervision of such agency.

(c) The division may waive the furnishing of one of the documents required by subsection (b) in the case of:

(1) A person who is 65 or more years of age; or
 (2) an inmate who has been released on parole, conditional release or expiration of the inmate's maximum sentence. When additional clarification is needed to adequately describe any of the above items, the division shall specify such clarification in making the requirement for such item.

(d) In lieu of providing one of the documents required by subsection (b), a person may recite to the satisfaction of the driver's license examiner the recent motor vehicle operating record of the person.

(e) Any person who loses a driver's license and who, after obtaining a replacement, finds the original license shall immediately surrender the original license to the division.";

On page 6, following line 6, by inserting:

"Sec. 5. K.S.A. 75-5216 is hereby amended to read as follows: 75-5216. (a) Parole officers shall investigate all persons referred to them for investigation by the secretary of corrections. Parole officers shall furnish to each person released under their supervision a written statement of the conditions of parole or postrelease supervision and shall give instructions regarding these conditions. Parole officers shall keep informed of the conduct and condition of a parolee or inmate on postrelease supervision and use all suitable methods to aid, encourage and bring about improvement in the conduct and condition of such parolee or inmate ~~or on~~ postrelease supervision. Parole officers shall keep detailed records of their work and shall make such reports in writing and perform such other duties as may be incidental to those above enumerated or as the secretary may require. Parole officers shall coordinate their work with that of social welfare agencies.

(b) The secretary of corrections shall develop guidance for use by parole officers that includes intervention responses to behavior that would constitute a violation of parole or postrelease supervision and incentive responses to compliant behavior and pro-social achievements. Parole officers shall use such guidance developed by the secretary while supervising offenders on parole or postrelease supervision."

On page 9, in line 15, after "22-2809" by inserting ", 75-5216"; also in line 15, after "Supp." by inserting "8-246,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "relating to issuance of identification certificates by court services and community corrections agencies; use thereof to obtain replacement driver's license;"; in line 7, after the semicolon by inserting "requiring the secretary of corrections to develop guidance to address violations of parole and postrelease supervision;"; also in line 7, after "22-2809" by inserting ", 75-5216"; in line 8, after "Supp." by inserting "8-246,";

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

KELLIE WARREN

RICK WILBORN

DAVID HALEY

Conferees on part of Senate

J. RUSSELL JENNINGS

STEPHEN OWENS

DENNIS HIGHBERGER

Conferees on part of House

Senator Warren moved the Senate adopt the Conference Committee Report on **HB 2121**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Masterson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2158** submits the following report:

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

On page 1, following line 9, by inserting:

"WHEREAS, The amendments made to the provisions of K.S.A. 2020 Supp. 38-2226 by this act shall be known as Adrian's Law.

Now, therefore:"

Also on page 1, following line 11, by inserting:

"New Section 1. (a) There is hereby established the joint committee on child welfare system oversight. The joint committee shall review:

(1) Data on child maltreatment and demographic trends impacting the child welfare system;

(2) the duties, responsibilities and contributions of the Kansas department for children and families, the Kansas department for aging and disability services, the department of health and environment, the department of corrections, law enforcement and the judicial branch that comprise and impact the child welfare system;

(3) the programs, services and benefits offered directly or through grants or contracts by the Kansas department for children and families, the Kansas department for aging and disability services, the department of health and environment and the judicial branch that impact children and families at risk of becoming involved or who are involved in the child welfare system, including:

- (A) Child maltreatment prevention;
 - (B) investigations of child maltreatment;
 - (C) in-home family services, including services offered through federal prevention and family preservation funding; and
 - (D) foster care, reintegration and adoption services;
- (4) trends, performance outcomes, activities and improvement plans related to the federal child and family services reviews;
 - (5) reports from child welfare-related groups, including, but not limited to, citizen review panels, the Kansas supreme court permanency planning task force, the Kansas children's cabinet and any interim study committees or work groups authorized by the Kansas legislature;
 - (6) implementation of the 2019 child welfare system task force report recommendations, including top-tier recommendations related to the child welfare workforce, data technology, access to behavioral healthcare for high-risk youth and implementation of the federal family first prevention services act;
 - (7) reports on concerns received from the Kansas department for children and families child welfare ombudsman or customer service department or similar office;
 - (8) opportunities for Kansas to strengthen the child welfare system through evidence-based interventions and services for children and families;
 - (9) data and trends on family foster home licenses issued pursuant to K.S.A. 65-516(b), and amendments thereto;
 - (10) the exception to state child death review board confidentiality for city or county entities with the express purpose of providing local review of child deaths pursuant to K.S.A. 2020 Supp. 22a-243, and amendments thereto; and
 - (11) any other topic the joint committee deems appropriate.
- (b) The joint committee shall consist of 13 members of the legislature appointed as follows:
 - (1) Two members of the house of representatives standing committee on children and seniors appointed by the speaker of the house of representatives;
 - (2) one member of the house of representatives standing committee on children and seniors appointed by the minority leader of the house of representatives;
 - (3) two members of the senate standing committee on public health and welfare appointed by the president of the senate;
 - (4) one member of the senate standing committee on public health and welfare appointed by the minority leader of the senate;
 - (5) two members of the house of representatives appointed by the speaker of the house of representatives;
 - (6) one member of the house of representatives appointed by the minority leader of the house of representatives;
 - (7) two members of the senate appointed by the president of the senate;
 - (8) one member of the senate appointed by the minority leader of the senate; and
 - (9) one member of the house of representatives appointed by the majority leader of the house of representatives.
 - (c) Members shall be appointed for terms coinciding with the legislative terms for which such members are elected or appointed. All members appointed to fill vacancies in the membership of the joint committee and all members appointed to succeed members appointed to the membership on the joint committee shall be appointed in the

manner provided for the original appointment of the member succeeded.

(d) (1) Within 30 days of the effective date of this section, the first chairperson of the joint committee shall be appointed by the president of the senate from among the members of the joint committee appointed by the president of the senate. The chairperson and vice-chairperson of the joint committee shall alternate annually between the members appointed by the president of the senate and the speaker of the house of representatives.

(2) The speaker of the house of representatives shall designate a representative member to be the chairperson or the vice-chairperson of the joint committee as provided in this section. The president of the senate shall designate a senator member to be the chairperson or the vice-chairperson of the joint committee as provided in this section. The ranking minority member shall be from the same chamber as the chairperson. The minority leader of the senate shall designate a senator member to be the ranking minority member of the joint committee as provided in this section. The minority leader of the house of representatives shall designate a representative member to be the ranking minority member of the joint committee as provided in this section.

(e) The members originally appointed as members of the joint committee shall meet upon the call of the chairperson on or after January 1, 2021. Thereafter, the joint committee shall meet at least once during each of the first and second calendar quarters when the legislature is in regular session and at least once during each of the third and fourth calendar quarters, on the call of the chairperson, but not to exceed six meetings in a calendar year.

(f) Seven members of the joint committee shall constitute a quorum.

(g) At the beginning of each regular session of the legislature, the joint committee shall submit to the president of the senate, the speaker of the house of representatives, the house standing committee on children and seniors and the senate standing committee on public health and welfare a written report that shall include recommended changes to current laws, rules and regulations and policies regarding the safety and well-being of children in the child welfare system in the state of Kansas.

(h) Members of the joint committee shall be paid compensation, amounts for travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, for attendance at any meeting of the joint committee or any subcommittee meeting authorized by the committee.

(i) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(j) The joint committee may make recommendations and introduce legislation as it deems necessary in performing its functions.";

On page 3, in line 25, by striking all after "K.S.A."; in line 26, by striking "5101a" and inserting "21-2501a"; in line 36, by striking all after "K.S.A."; in line 37, by striking "5101a" and inserting "21-2501a"; in line 38, after "child" by inserting a semicolon; in line 39, after "(6)" by inserting "(A)"; in line 42, by striking "(A)" and inserting "(i)"; in line 43, by striking "(B)" and inserting "(ii)"; following line 43, by inserting:

"(B) the provisions of this paragraph shall expire on July 1, 2026, unless the legislature reviews and reenacts such provisions prior to July 1, 2026; and

(C) the joint committee on child welfare system oversight shall review the

provisions of this paragraph pursuant to section 1, and amendments thereto;"

On page 4, following line 25, by inserting:

"Sec. 3. K.S.A. 2020 Supp. 38-2226 is hereby amended to read as follows: 38-2226. (a) *Investigation for child abuse or neglect.* The secretary and law enforcement officers shall have the duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect a child. Any person or agency which maintains records relating to the involved child which are relevant to any investigation conducted by the secretary or law enforcement agency under this code shall provide the secretary or law enforcement agency with the necessary records to assist in investigations. In order to provide such records, the person or agency maintaining the records shall receive from the secretary or law enforcement: (1) A written request for information; and (2) a written notice that the investigation is being conducted by the secretary or law enforcement. If the secretary and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 2020 Supp. 38-2210, and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the Kansas department of corrections shall be investigated by the attorney general or secretary of corrections. Any suspected child abuse or neglect in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be investigated by the appropriate law enforcement agency.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the secretary shall assist each other in taking action which is necessary to protect a child regardless of which agency conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.* (1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview conducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the child.

To the extent that safety and practical considerations allow, law enforcement officers on such premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(2) The secretary or a law enforcement officer may request the presence of school personnel during an interview if the secretary or officer determines that the presence of such person might provide comfort to the child or facilitate the investigation.

(h) *Visual observation required.* As part of any investigation conducted pursuant to this section, the secretary, or the secretary's designee, or the law enforcement agency, or such agency's designee, that is conducting the investigation shall visually observe the child who is the alleged victim of abuse or neglect. In the case of a joint investigation conducted pursuant to subsection (b), the secretary and the investigating law enforcement agency, or the designees of the secretary and such agency, shall both visually observe the child who is the alleged victim of abuse or neglect. All investigation reports shall include the date, time and location of any visual observation of a child that is required by this subsection.

Sec. 4. K.S.A. 2020 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife or cohabiting partners are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse, cohabiting partner or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for temporary assistance for needy families, for food assistance and for any other assistance provided through the Kansas department for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any boat, personal water craft, recreational vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance except that any additional motor vehicle used by the applicant, the applicant's spouse or the applicant's cohabiting partner for the primary purpose of earning income may be considered as exempt personal property in the secretary's discretion.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Temporary assistance for needy families.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other

relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as temporary assistance for needy families. Where the husband and wife or cohabiting partners are living together, both shall register for work under the program requirements for temporary assistance for needy families in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(1) As used in this subsection, "family group" or "household" means the applicant or recipient for TANF, child care subsidy or employment services and all individuals living together in which there is a relationship of legal responsibility or a qualifying caretaker relationship. This will include a cohabiting boyfriend or girlfriend living with the person legally responsible for the child. The family group shall not be eligible for TANF if the family group contains at least one adult member who has received TANF, including the federal TANF assistance received in any other state, for 24 calendar months beginning on and after October 1, 1996, unless the secretary determines a hardship exists and grants an extension allowing receipt of TANF until the 36-month limit is reached. No extension beyond 36 months shall be granted. Hardship provisions for a recipient include:

- (A) Is a caretaker of a disabled family member living in the household;
- (B) has a disability which precludes employment on a long-term basis or requires substantial rehabilitation;
- (C) needs a time limit extension to overcome the effects of domestic violence/sexual assault;
- (D) is involved with prevention and protection services (PPS) and has an open social service plan; or
- (E) is determined by the 24th month to have an extreme hardship other than what is designated in criteria listed in subparagraphs (A) through (D). This determination will be made by the executive review team.

(2) All adults applying for TANF shall be required to complete a work program assessment as specified by the Kansas department for children and families, including those who have been disqualified for or denied TANF due to non-cooperation, drug testing requirements or fraud. Adults who are not otherwise eligible for TANF, such as ineligible aliens, relative/non-relative caretakers and adults receiving supplemental security income are not required to complete the assessment process. During the application processing period, applicants must complete at least one module or its equivalent of the work program assessment to be considered eligible for TANF benefits, unless good cause is found to be exempt from the requirements. Good cause exemptions shall only include:

- (A) The applicant can document an existing certification verifying completion of the work program assessment;
- (B) the applicant has a valid offer of employment or is employed a minimum of 20 hours a week;
- (C) the applicant is a parenting teen without a GED or high school diploma;
- (D) the applicant is enrolled in job corps;
- (E) the applicant is working with a refugee social services agency; or
- (F) the applicant has completed the work program assessment within the last 12 months.

(3) The department for children and families shall maintain a sufficient level of dedicated work program staff to enable the agency to conduct work program case

management services to TANF recipients in a timely manner and in full accordance with state law and agency policy.

(4) TANF mandatory work program applicants and recipients shall participate in work components that lead to competitive, integrated employment. Components are defined by the federal government as being either primary or secondary. In order to meet federal work participation requirements, households need to meet at least 30 hours of participation per week, at least 20 hours of which need to be primary and at least 10 hours may be secondary components in one parent households where the youngest child is six years of age or older. Participation hours shall be 55 hours in two parent households (35 hours per week if child care is not used). The maximum assignment is 40 hours per week per individual. For two parent families to meet the federal work participation rate both parents must participate in a combined total of 55 hours per week, 50 hours of which must be in primary components, or one or both parents could be assigned a combined total of 35 hours per week (30 hours of which must be primary components) if department for children and families paid child care is not received by the family. Single parent families with a child under age six meet the federal participation requirement if the parent is engaged in work or work activities for at least 20 hours per week in a primary work component. The following components meet federal definitions of primary hours of participation: Full or part-time employment, apprenticeship, work study, self-employment, job corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, job search and job readiness. Secondary components include: Job skills training, education directly related to employment such as adult basic education and English as a second language, and completion of a high school diploma or GED.

(5) A parent or other adult caretaker personally providing care for a child under the age of three months in their TANF household is exempt from work participation activities until the month the child turns three months of age. Such three-month limitation shall not apply to a parent or other adult caretaker who is personally providing care for a child born significantly premature, with serious medical conditions or with a disability as defined by the secretary, in consultation with the secretary of health and environment, and adopted in the rules and regulations. The three-month period is defined as two consecutive months starting with the month after childbirth. The exemption for caring for a child under three months cannot be claimed:

(A) By either parent when two parents are in the home and the household meets the two-parent definition for federal reporting purposes;

(B) by one parent or caretaker when the other parent or caretaker is in the home, and available, capable and suitable to provide care and the household does not meet the two-parent definition for federal reporting purposes;

(C) by a person age 19 or younger when such person is pregnant or a parent of a child in the home and the person does not possess a high school diploma or its equivalent. Such person shall become exempt the month such person turns age 20; or

(D) by any person assigned to a work participation activity for substance use disorders.

(6) TANF work experience placements shall be reviewed after 90 days and are limited to six months per 24-month lifetime limit. A client's progress shall be reviewed prior to each new placement regardless of the length of time they are at the work experience site.

(7) TANF participants with disabilities shall engage in required employment activities to the maximum extent consistent with their abilities. TANF participants shall provide current documentation by a qualified medical practitioner that details the abilities to engage in employment and any limitations in work activities along with the expected duration of such limitations. Disability is defined as a physical or mental impairment constituting or resulting in a substantial impediment to employment for such individual.

(8) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for TANF benefits based on non-cooperation with work programs shall be as follows:

(A) For a first penalty, three months and full cooperation with work program activities;

(B) for a second penalty, six months and full cooperation with work program activities;

(C) for a third penalty, one year and full cooperation with work program activities; and

(D) for a fourth or subsequent penalty, 10 years.

(9) Individuals that have not cooperated with TANF work programs shall be ineligible to participate in the food assistance program. The comparable penalty shall be applied to only the individual in the food assistance program who failed to comply with the TANF work requirement. The agency shall impose the same penalty to the member of the household who failed to comply with TANF requirements. The penalty periods are three months, six months, one year, or 10 years.

(10) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for child care subsidy or TANF benefits based on parents' non-cooperation with child support services shall be as follows:

(A) For the first penalty, three months and cooperation with child support services prior to regaining eligibility;

(B) for a second penalty, six months and cooperation with child support services prior to regaining eligibility;

(C) for a third penalty, one year and cooperation with child support services prior to regaining eligibility; and

(D) for a fourth penalty, 10 years.

(11) Individuals that have not cooperated without good cause with child support services shall be ineligible to participate in the food assistance program. The period of disqualification ends once it has been determined that such individual is cooperating with child support services.

(12) (A) Any individual who is found to have committed fraud or is found guilty of the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and K.S.A. 2020 Supp. 21-5801, and amendments thereto, in either the TANF or child care program shall render all adults in the family unit ineligible for TANF assistance. Adults in the household who were determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and K.S.A. 2020 Supp. 21-5801, and amendments thereto, shall render themselves and all adult household members ineligible for their lifetime for TANF, even if fraud was committed

in only one program. Households who have been determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and K.S.A. 2020 Supp. 21-5801, and amendments thereto, shall be required to name a protective payee as approved by the secretary or the secretary's designee to administer TANF benefits or food assistance on behalf of the children. No adult in a household may have access to the TANF cash assistance benefit.

(B) Any individual that has failed to cooperate with a fraud investigation shall be ineligible to participate in the TANF cash assistance program and the child care subsidy program until the department for children and families determines that such individual is cooperating with the fraud investigation. The department for children and families shall maintain a sufficient level of fraud investigative staff to enable the department to conduct fraud investigations in a timely manner and in full accordance with state law and department rules and regulations or policies.

(13) (A) Food assistance shall not be provided to any person convicted of a felony offense occurring on or after July 1, 2015, which includes as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog. For food assistance, the individual shall be permanently disqualified if they have been convicted of a state or federal felony offense occurring on or after July 1, 2015, involving possession or use of a controlled substance or controlled substance analog.

(B) Notwithstanding the provisions of subparagraph (A), an individual shall be eligible for food assistance if the individual enrolls in and participates in a drug treatment program approved by the secretary, submits to and passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

An individual's failure to submit to testing or failure to successfully pass a drug test shall result in ineligibility for food assistance until a drug test is successfully passed. Failure to successfully complete a drug treatment program shall result in ineligibility for food assistance until a drug treatment plan approved by the secretary is successfully completed, the individual passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

(C) The provisions of subparagraph (B) shall not apply to any individual who has been convicted for a second or subsequent felony offense as provided in subparagraph (A).

(14) No TANF cash assistance shall be used to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets or tickets for other entertainment events intended for the general public or sexually oriented adult materials. No TANF cash assistance shall be used in any retail liquor store, casino, gaming establishment, jewelry store, tattoo parlor, massage parlor, body piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond company, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or sexually oriented business or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or in any business or retail establishment where minors under age 18 are not permitted. No TANF cash assistance shall be used for purchases at points of sale outside the state of Kansas.

(15) (A) The secretary for children and families shall place a photograph of the recipient, if agreed to by such recipient of public assistance, on any Kansas benefits card issued by the Kansas department for children and families that the recipient uses in obtaining food, cash or any other services. When a recipient of public assistance is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

(B) Any Kansas benefits card with a photograph of a recipient shall be valid for voting purposes as a public assistance identification card in accordance with the provisions of K.S.A. 25-2908, and amendments thereto.

(C) As used in this paragraph and its subparagraphs, "Kansas benefits card" means any card issued to provide food assistance, cash assistance or child care assistance, including, but not limited to, the vision card, EBT card and Kansas benefits card.

(D) The Kansas department for children and families shall monitor all recipient requests for a Kansas benefits card replacement and, upon the fourth such request in a 12-month period, send a notice alerting the recipient that the recipient's account is being monitored for potential suspicious activity. If a recipient makes an additional request for replacement subsequent to such notice, the department shall refer the investigation to the department's fraud investigation unit.

(16) The secretary for children and families shall adopt rules and regulations:

(A) In determining eligibility for the child care subsidy program, including an income of a cohabiting partner in a child care household; and

(B) in determining and maintaining eligibility for non-TANF child care, requiring that all included adults shall be employed a minimum of 20 hours per week or more as defined by the secretary or meet the following specific qualifying exemptions:

(i) Adults who are not capable of meeting the requirement due to a documented physical or mental condition;

(ii) adults who are former TANF recipients who need child care for employment after their TANF case has closed and earned income is a factor in the closure in the two months immediately following TANF closure;

(iii) adult parents included in a case in which the only child receiving benefits is the child of a minor parent who is working on completion of high school or obtaining a GED;

(iv) adults who are participants in a food assistance employment and training program; ~~or~~

(v) adults who are participants in an early head start child care partnership program and are working or in school or training; or

(vi) adults who are caretakers of a child in custody of the secretary in out-of-home placement needing child care.

The department for children and families shall provide child care for the pursuit of any degree or certification if the occupation has at least an average job outlook listed in the occupational outlook of the U.S. department of labor, bureau of labor statistics. For occupations with less than an average job outlook, educational plans shall require approval of the secretary or secretary's designee. Child care may also be approved if the student provides verification of a specific job offer that will be available to such student upon completion of the program. Child care for post-secondary education shall be allowed for a lifetime maximum of 24 months per adult. The 24 months may not have to be consecutive. Students shall be engaged in paid employment for a minimum of 15

hours per week. In a two-parent adult household, child care would not be allowed if both parents are adults and attending a formal education or training program at the same time. The household may choose which one of the parents is participating as a post-secondary student. The other parent shall meet another approvable criteria for child care subsidy.

(17) (A) The secretary for children and families is prohibited from requesting or implementing a waiver or program from the U.S. department of agriculture for the time limited assistance provisions for able-bodied adults aged 18 through 49 without dependents in a household under the food assistance program. The time on food assistance for able-bodied adults aged 18 through 49 without dependents in the household shall be limited to three months in a 36-month period if such adults are not meeting the requirements imposed by the U.S. department of agriculture that they must work for at least 20 hours per week or participate in a federally approved work program or its equivalent.

(B) Each food assistance household member who is not otherwise exempt from the following work requirements shall: Register for work; participate in an employment and training program, if assigned to such a program by the department; accept a suitable employment offer; and not voluntarily quit a job of at least 30 hours per week.

(C) Any recipient who has not complied with the work requirements under subparagraph (B) shall be ineligible to participate in the food assistance program for the following time period and until the recipient complies with such work requirements:

- (i) For a first penalty, three months;
- (ii) for a second penalty, six months; and
- (iii) for a third penalty and any subsequent penalty, one year.

(18) Eligibility for the food assistance program shall be limited to those individuals who are citizens or who meet qualified non-citizen status as determined by U.S. department of agriculture. Non-citizen individuals who are unable or unwilling to provide qualifying immigrant documentation, as defined by the U.S. department of agriculture, residing within a household shall not be included when determining the household's size for the purposes of assigning a benefit level to the household for food assistance or comparing the household's monthly income with the income eligibility standards. The gross non-exempt earned and unearned income and resources of disqualified individuals shall be counted in its entirety as available to the remaining household members.

(19) The secretary for children and families shall not enact the state option from the U.S. department of agriculture for broad-based categorical eligibility for households applying for food assistance according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).

(20) No federal or state funds shall be used for television, radio or billboard advertisements that are designed to promote food assistance benefits and enrollment. No federal or state funding shall be used for any agreements with foreign governments designed to promote food assistance.

(21) (A) The secretary for children and families shall not apply gross income standards for food assistance higher than the standards specified in 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical eligibility exempting households from such gross income standards requirements shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(B) The secretary for children and families shall not apply resource limits standards

for food assistance that are higher than the standards specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal law. Categorical eligibility exempting households from such resource limits shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(c) (1) On and after January 1, 2017, the department for children and families shall conduct an electronic check for any false information provided on an application for TANF and other benefits programs administered by the department. For TANF cash assistance, food assistance and the child care subsidy program, the department shall verify the identity of all adults in the assistance household.

(2) The department of administration shall provide monthly to the Kansas department for children and families the social security numbers or alternate taxpayer identification numbers of all persons who claim a Kansas lottery prize in excess of \$5,000 during the reported month. The Kansas department for children and families shall verify if individuals with such winnings are receiving TANF cash assistance, food assistance or assistance under the child care subsidy program and take appropriate action. The Kansas department for children and families shall use data received under this subsection solely, and for no other purpose, to determine if any recipient's eligibility for benefits has been affected by lottery prize winnings. The Kansas department for children and families shall not publicly disclose the identity of any lottery prize winner, including recipients who are determined to have illegally received benefits.

(d) *Temporary assistance for needy families; assignment of support rights and limited power of attorney.* By applying for or receiving temporary assistance for needy families such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving temporary assistance for needy families, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney-in-fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under

which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to K.S.A. 16-303(c), and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient. Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, unless the legislature expressly consents to, and approves of, the expansion of medicaid services by an act of the legislature.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, "public assistance" includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct

relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.* (1) (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in on behalf of any person applying for, receiving or having received

such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to K.S.A. 39-756(d), and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(B) Notwithstanding the provisions of subparagraph (A), the secretary of health and environment, or the secretary's designee, is hereby authorized to and shall exercise any of the powers specified in subparagraph (A) in relation to performance of such secretary's duties pertaining to medical subrogation, estate recovery or any other duties assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is: (A) A claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both; and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 17-2263 or 17-2264, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection. The secretary of health and environment is authorized to enforce each claim provided for under this subsection. The secretary of health and environment shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary of health and environment from claims under this subsection shall be deposited in the social welfare fund. The secretary of health and environment may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection.

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative

payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- (A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary of health and environment or the secretary's designee;
- (B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or
- (C) the value of the real property is consumed by the lien, at which time the secretary of health and environment or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(9) All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this subsection shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment until revised, amended, revoked or nullified pursuant to law.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2020 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments

for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge or violation of a condition of probation or parole imposed under federal or state law shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of temporary assistance for needy families is a mother of the dependent child, as a condition of the mother's eligibility for temporary assistance for needy families the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of temporary assistance for needy families who fails to cooperate with requirements relating to child support services under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary.

(k) By applying for or receiving child care benefits or food assistance, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food assistance, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing

support obligations to the same extent required of applicants for or recipients of temporary assistance for needy families.

(1) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on and before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated

from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or,

the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2020 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2020 Supp. 21-5701, and amendments thereto.

Sec. 5. K.S.A. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility if there resides, works or regularly volunteers any person who in this state or in other states or the federal government:

(1) (A) Has been convicted of a crime that is classified as a person felony under the Kansas criminal code;

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

(C) has been convicted of any act that is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or been convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2020 Supp. 21-5301, and amendments thereto, to commit any such act or been convicted of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2020 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of any other state or the federal government;

(D) has been convicted of any act that is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2020 Supp. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government; or

(E) has been convicted of any act that is described in K.S.A. 21-3718 or 21-3719, prior to their repeal, or K.S.A. 2020 Supp. 21-5812, and amendments thereto, or similar statutes of any other state or the federal government;

(2) except as provided in subsection (b), has been adjudicated a juvenile offender because of having committed an act that if done by an adult would constitute the commission of a felony and that is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or similar statutes of any other state or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2020 Supp. 21-6401, and amendments thereto, or similar statutes of any other state or

the federal government;

(3) has been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any other state or as a sex offender on the national sex offender registry;

(4) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2020 Supp. 38-2226, and amendments thereto, or any similar child abuse and neglect registries maintained by any other state or the federal government and:

(A) The person has failed to successfully complete a corrective action plan that had been deemed appropriate and approved by the Kansas department for children and families or requirements of similar entities in any other state or the federal government; or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families or similar entities in any other state or the federal government;

(5) has had a child removed from home based on a court order pursuant to K.S.A. 2020 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;

(6) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2020 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

(7) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2020 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or

(8) has an infectious or contagious disease.

(b) If the secretary determines there is no safety concern, the secretary may license a family foster home, as defined in K.S.A. 38-134, and amendments thereto, when a person who has been adjudicated as a juvenile offender for an offense described in subsection (a)(2):

(1) Was a child in the custody of the secretary and placed with such family foster home by the secretary:

(2) is 18 years of age or older:

(3) (A) maintains residence at such family foster home; or

(B) has been legally adopted by any person who resides at such family foster home;

and

(4) six months have passed since the date of adjudication.

~~(b)~~(c) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

~~(c)~~(d) Any person who resides in a child care facility and who has been found to be

in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

~~(d)~~(e) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2020 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

~~(e)~~(f) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.

~~(f)~~(g) Local and state law enforcement officers and agencies shall assist the secretary in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the department.

~~(g)~~(h) (1) The secretary shall adopt rules and regulations on or before January 1, 2019, to fix a fee for fingerprinting persons residing, working or regularly volunteering in a child care facility, as may be required by the department to reimburse the department for the cost of the fingerprinting.

(2) The secretary shall remit all moneys received from the fees established under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the child care criminal background and fingerprinting fund.

~~(h)~~(i) The child care criminal background and fingerprinting fund is hereby created in the state treasury to be administered by the secretary of health and environment. All moneys credited to the child care criminal background and fingerprinting fund shall be used to pay local and state law enforcement officers and agencies for the processing of fingerprints and criminal history background checks for the department. All expenditures from the child care criminal background and fingerprinting fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.

~~(j)~~(j) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsections (a)(1) through (8) with regard to the person who is the subject of the review.

~~(k)~~(k) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

~~(l)~~(l) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:

(1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and

(2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

~~(m)~~(m) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history on record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:

(A) The person who is the subject of the request for information;

(B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;

(C) the department of health and environment;

(D) the Kansas department for children and families;

(E) the department of corrections; and

(F) the courts.

(6) A violation of the provisions of ~~subsection (4)(5) paragraph (5)~~ shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.

~~(n)~~(n) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any

person who was maintaining a day care facility on the day immediately prior to July 1, 2010, or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.";

On page 9, in line 16, after the first "K.S.A." by inserting "65-516,"; in line 17, after "243" by inserting ", 38-2226 and 39-709"; in line 19, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "open government" and inserting "health and welfare; providing for the safety and wellbeing of children and vulnerable persons; establishing the joint committee on child welfare system oversight"; in line 3, after the semicolon, by inserting "requiring visual observation of a child in investigations of child abuse or neglect; adding an exemption from the child care assistance 20-hour-per-week work requirement; permitting the secretary to provide exemptions from family foster home license requirements,"; in line 7, after "K.S.A." by inserting "65-516,"; in line 8, after "22a-243" by inserting ", 38-2226 and 39-709";

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

RICHARD HILDERBRAND

BEVERLY GOSSAGE

PAT PETTEY

Conferees on part of Senate

SUSAN CONCANNON

CHARLOTTE ESAU

JARROD OUSLEY

Conferees on part of House

Senator Hilderbrand moved the Senate adopt the Conference Committee Report on **HB 2158**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Masterson.

The Conference Committee Report was adopted.

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

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

AFTERNOON SESSION

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 47** submits the following report:

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

On page 1, in line 8, before "Section" by inserting "New"; in line 10, after "act" by inserting "and shall be effective on and after January 1, 2022"; in line 11, before "Sec." by inserting "New"; in line 27, before "Sec." by inserting "New";

On page 2, in line 15, before "Sec." by inserting "New";

On page 3, in line 37, before "Sec." by inserting "New";

On page 4, in line 15, before "Sec." by inserting "New"; following line 16, by inserting:

"New Sec. 7. (a) For taxable years commencing after December 31, 2020, and before January 1, 2026, there shall be allowed a credit against the tax imposed by the Kansas income tax act and the privilege tax pursuant to K.S.A. 79-1106 et seq., and amendments thereto, in an amount equal to 50% of the total amount contributed during the taxable year by a taxpayer subject to income tax pursuant to K.S.A. 79-32,110(a) or (c), and amendments thereto, or subject to the privilege tax pursuant to K.S.A. 79-1107 and 79-1108, and amendments thereto, to the Eisenhower foundation.

(b) The amount of such credit awarded to a taxpayer in a taxable year pursuant to this section shall not exceed:

(1) \$25,000 for any taxpayer subject to the income tax on resident individuals imposed pursuant to K.S.A. 79-32,110(a), and amendments thereto; or

(2) \$50,000 for any taxpayer subject to the income tax on corporations imposed pursuant to K.S.A. 79-32,110(c), and amendments thereto, or the privilege tax on financial institutions pursuant to K.S.A. 79-1107 and 79-1108, and amendments thereto.

(c) The aggregate amount of credits claimed pursuant to this section shall not exceed \$350,000 for any fiscal year.

(d) The credit allowed by this section shall not exceed the amount of tax imposed under the Kansas income tax act or the privilege tax reduced by the sum of any other credits allowable pursuant to law. Such credit shall be deducted from the taxpayer's income or privilege tax liability for the taxable year in which the contributions are made by the taxpayer. The taxpayer shall not be allowed to carry over any amount of such credit exceeding the taxpayer's income or privilege tax liability.

New Sec. 8. (a) For taxable years commencing after December 31, 2020, and before January 1, 2026, there shall be allowed a credit against the tax imposed by the Kansas income tax act and the privilege tax pursuant to K.S.A. 79-1106 et seq., and amendments thereto, in an amount equal to 50% of the total amount contributed during the taxable year by a taxpayer subject to income tax pursuant to K.S.A. 79-32,110(a) or (c), and amendments thereto, or subject to the privilege tax pursuant to K.S.A. 79-1107 and 79-1108, and amendments thereto, to the friends of cedar crest association.

(b) The amount of such credit awarded to a taxpayer in a taxable year pursuant to this section shall not exceed:

(1) \$25,000 for any taxpayer subject to the income tax on resident individuals imposed pursuant to K.S.A. 79-32,110(a), and amendments thereto; or

(2) \$50,000 for any taxpayer subject to the income tax on corporations imposed pursuant to K.S.A. 79-32,110(c), and amendments thereto, or the privilege tax on financial institutions pursuant to K.S.A. 79-1107 and 79-1108, and amendments thereto.

(c) The aggregate amount of credits claimed pursuant to this section shall not

exceed \$350,000 for any fiscal year.

(d) The credit allowed by this section shall not exceed the amount of tax imposed under the Kansas income tax act or the privilege tax reduced by the sum of any other credits allowable pursuant to law. Such credit shall be deducted from the taxpayer's income or privilege tax liability for the taxable year in which the contributions are made by the taxpayer. The taxpayer shall not be allowed to carry forward any amount of such credit exceeding the taxpayer's income or privilege tax liability.

New Sec. 9. For the period of January 1, 2021, through December 31, 2022, for wages paid to employees who are temporarily teleworking in a state other than their primary work location, employers shall have the option to continue to withhold income taxes based on the state of the employee's primary work location and not based on the state in which the employee is teleworking or otherwise working during the COVID-19 pandemic. If any provisions of K.S.A. 79-3296, and amendments thereto, are in conflict with the provisions of this section, the provisions of this section shall control.

New Sec. 10. (a) Notwithstanding any other provision of law, for any individual whose identity was fraudulently used to secure any type of compensation, if such individual never received such compensation, such compensation shall not be considered gross income and shall not be taxable for Kansas income tax purposes after determination by the department of revenue that the compensation was obtained fraudulently by another individual.

(b) The department of revenue shall provide a method for any taxpayer subject to the Kansas income tax act to report to the department of revenue whether such taxpayer was a victim of fraud due to identity theft and whether such fraud resulted in the reporting of any income to the federal internal revenue service. The report shall include, but not be limited to, the amount of the income reported to the federal internal revenue service due to fraud, if known.

Sec. 11. K.S.A. 74-50,222 is hereby amended to read as follows: 74-50,222. As used in K.S.A. 74-50,222, 74-50,223 and 79-32,267, and amendments thereto:

(a) "Institution of higher education" means a public or private nonprofit educational institution that meets the requirements of participation in programs under the higher education act of 1965, as amended, 34 C.F.R. § 600;

(b) "rural opportunity zone" means ~~Allen, Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Seott, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson or Woodson counties~~ a county with a population of 40,000 persons or less;

(c) "secretary" means the secretary of commerce; and

(d) "student loan" means a federal student loan program supported by the federal government and a nonfederal loan issued by a lender such as a bank, savings and loan or credit union to help students and parents pay school expenses for attendance at an institution of higher education.

Sec. 12. K.S.A. 74-50,223 is hereby amended to read as follows: 74-50,223. (a)

Any county that has been designated a rural opportunity zone pursuant to K.S.A. 74-50,222, and amendments thereto, may participate in the program provided in this section by authorizing such participation by the county commission of such county through a duly enacted written resolution. Such county shall provide a certified copy of such resolution to the secretary of commerce on or before January 1, 2012, for calendar year 2012, or on or before January 1 for each calendar year thereafter, in which a county chooses to participate. Such resolution shall obligate the county to participate in the program provided by this section for a period of five years, and shall be irrevocable. Such resolution shall specify the maximum amount of outstanding student loan balance for each resident individual to be repaid as provided in subsection (b), except the maximum amount of such balance shall be \$15,000.

(b) If a county submits a resolution as provided in subsection (a), under the program provided in this section, subject to subsection (d), the state of Kansas and such county which chooses to participate as provided in subsection (a), shall agree to pay in equal shares the outstanding student loan balance of any resident individual who qualifies to have such individual's student loans repaid under the provisions of subsection (c) over a five-year period, except that the maximum amount of such balance shall be \$15,000. The amount of such repayment shall be equal to 20% of the outstanding student loan balance of the individual in a year over the five-year repayment period. The state of Kansas is not obligated to pay the student loan balance of any resident individual who qualifies pursuant to subsection (c) prior to the county submitting a resolution to the secretary pursuant to subsection (a). Each such county shall certify to the secretary that such county has made the payment required by this subsection.

(c) A resident individual shall be entitled to have such individual's outstanding student loan balance paid for attendance at an institution of higher education where such resident individual earned an associate, bachelor or post-graduate degree under the provisions of this section when such resident individual establishes domicile in a county designated as a rural opportunity zone which participates in the program as provided in subsection (a), on and after the date in which such county commenced such participation, and prior to July 1, ~~2021~~ 2023. Such resident individual may enroll in this program in a form and manner prescribed by the secretary. Subject to subsection (d), once enrolled such resident individual shall be entitled to full participation in the program for five years, except that if the resident individual relocates outside the rural opportunity zone for which the resident individual first qualified, such resident individual forfeits such individual's eligibility to participate, and obligations under this section of the state and the county terminate. No resident individual shall enroll and be eligible to participate in this program after June 30, ~~2021~~ 2023.

(d) The provisions of this act shall be subject to appropriation acts. Nothing in this act guarantees a resident individual a right to the benefits provided in this section. The county may continue to participate even if the state does not participate.

(e) The secretary shall adopt rules and regulations necessary to administer the provisions of this section.

(f) On January 1, 2012, and annually thereafter until January 1, ~~2022~~ 2024, the secretary of commerce shall report to the senate committee on assessment and taxation and the house of representatives committee on taxation as to how many residents applied for the rural opportunity zone tax credit.

Sec. 13. K.S.A. 79-3221 is hereby amended to read as follows: 79-3221. (a) All returns required by this act shall be made as nearly as practical in the same form as the corresponding form of income tax return by the United States. Unless another identifying number has been assigned to an individual by the internal revenue service for purposes of filing such individual's federal income tax return, the social security number issued to an individual, the individual's spouse, and all dependents of such individual for purposes of section 205(c)(2)(A) of the social security act shall be used as the identifying number and included on the return when filing such return.

(b) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (c)-~~hereof~~. Tentative returns may be filed before the close of the taxable year and the estimated tax computed on such return, paid, but no interest will be paid on any overpayment of tax liability, computed on such tentative return.

(c) ~~(1)~~ The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director with respect to any tax year commencing after December 31, 1992, no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(2) For any tax year commencing after December 31, 2019, any taxpayer filing a corporate tax return shall file the return in the office of the director of taxation:

(A) No later than one month after the due date established under the federal internal revenue code, including any applicable extensions granted by the internal revenue service; and

(B) no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if the return is filed within one month after receiving an extension to file a tax return with the internal revenue service. The taxpayer shall not be required to file an extension request with the director pursuant to this subparagraph.

(3) For any tax year commencing after December 31, 2019, any taxpayer filing a return, other than a corporate tax return, shall file the return in the office of the director of taxation not later than the due date established under the federal internal revenue code, including any applicable extensions granted by the internal revenue service. No penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if the return is filed not later than the deadline established by the internal revenue service. The taxpayer shall not be required to file an extension request with the director pursuant to this paragraph.

(d) In the case of an individual serving in the armed forces of the United States, or serving in support of such armed forces, in an area designated by the president of the United States by executive order as a "combat zone" as defined under 26 U.S.C. § 112 at any time during the period designated by the president by executive order as the period of combatant activities in such zone for the purposes of such section, or hospitalized as a result of injury received or sickness incurred while serving in such an area during such time, the period of service in such area, plus the period of continuous qualified hospitalization attributable to such injury or sickness, and the next 180 days thereafter, shall be disregarded in determining, under article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, in respect to any tax liability, including any interest, penalty, additional amount, or addition to the tax, of such

individual:

(1) Whether any of the following acts was performed within the time prescribed therefor: (A) Filing any return of income tax; (B) payment of any income tax or installment thereof; (C) filing a notice of appeal with the director of taxation or the state board of tax appeals for redetermination of a deficiency or for a review of a decision rendered by either the director or the state board of tax appeals; (D) allowance of a credit or refund of any income tax; (E) filing a claim for credit or refund of any income tax; (F) bringing suit upon any such claim for credit or refund; (G) assessment of any income tax; (H) giving or making any notice or demand for the payment of any income tax, or with respect to any liability to the state of Kansas in respect of any income tax; (I) collection, by the director of taxation or the director's agent, by warrant, levy or otherwise, of the amount of any liability in respect to any income tax; (J) bringing suit by the state of Kansas, or any officer on its behalf, in respect to any liability in respect of any income tax; and (K) any other act required or permitted under the Kansas income tax act specified in rules and regulations adopted by the secretary of revenue under this section;

(2) the amount of any credit or refund.

(e) (1) Subsection (d) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) If an individual is entitled to the benefits of subsection (d) with respect to any return and such return is timely filed, determined after the application of subsection (d), ~~subsections (e)(5) and (e)(7) of K.S.A. 79-32,105(e)(5) and (e)(7), and amendments thereto, shall not apply.~~

(f) The provisions of subsections (d) through (j) shall apply to the spouse of any individual entitled to the benefits of subsection (d). Except in the case of the combat zone designated for purposes of the Vietnam conflict, this subsection shall not cause subsections (d) through (j) to apply for any spouse for any taxable year beginning more than two years after the date designated under 26 U.S.C. § 112, and amendments thereto, as the date of termination of combatant activities in a combat zone.

(g) The period of service in the area referred to in subsection (d) shall include the period during which an individual entitled to benefits under subsection (d) is in a missing status, within the meaning of 26 U.S.C. § 6013(f)(3).

(h) (1) Notwithstanding the provisions of subsection (d), any action or proceeding authorized by K.S.A. 79-3229, and amendments thereto, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun or prosecuted. In any other case in which the secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (d) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this subsection the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (d). In any case to which this ~~subsections~~ subsection relates, if the secretary is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the secretary is in an area for which United States post offices under instructions of the postmaster general are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is

signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) The assessment or collection of any tax under the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or any action or proceeding by or on behalf of the state in connection therewith, may be made, taken, begun or prosecuted in accordance with law, without regard to the provisions of subsection (d), unless prior to such assessment, collection, action or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (d).

(i) (1) Any individual who performed Desert Shield services, and the spouse of such individual, shall be entitled to the benefits of subsections (d) through (j) in the same manner as if such services were services referred to in subsection (d).

(2) For purposes of this subsection, the term "Desert Shield services" means any services in the armed forces of the United States or in support of such armed forces if:

(A) Such services are performed in the area designated by the president as the "Persian Gulf Desert Shield area"; and

(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subsection (i)(2)(A) is designated by the president as a combat zone pursuant to 26 U.S.C. § 112.

(j) For purposes of subsection (d), the term "qualified hospitalization" means:

(1) Any hospitalization outside the United States; and

(2) any hospitalization inside the United States, except that not more than five years of hospitalization may be taken into account under this subsection. This subsection shall not apply for purposes of applying subsections (d) through (j) with respect to the spouse of an individual entitled to the benefits of subsection (d).

Sec. 14. K.S.A. 79-32,212 is hereby amended to read as follows: 79-32,212. (a) For taxable years 2002 through ~~2021~~ 2024, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 100% of the amount attributable to the retirement of indebtedness authorized by a single city port authority established before January 1, 2002. In no event shall the total amount of the credits allowed under this section exceed \$500,000 for any one fiscal year.

(b) Upon certification by the secretary of revenue of the amount of any such credit, the director of accounts and reports shall issue to such taxpayer a warrant for such amount which shall be deemed to be a capital contribution.

(c) For ~~tax-year years~~ 2013 and all tax years thereafter through 2021, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to ~~subsection (c) of K.S.A. 79-32,110(c)~~, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.

(d) For tax years 2022 through 2024, the income tax credit provided by this section shall be available to all taxpayers subject to the income tax imposed pursuant to K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's income tax liability.

Sec. 15. K.S.A. 79-32,267 is hereby amended to read as follows: 79-32,267. (a) For taxable years commencing after December 31, 2011, and before January 1, ~~2022~~ 2024, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to the resident individual's income tax liability under the provisions of the Kansas income tax act, when the resident individual:

(1) Establishes domicile in a rural opportunity zone on or after July 1, 2011, and prior to January 1, ~~2021~~ 2023, and was domiciled outside this state for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state;

(2) had Kansas source income less than \$10,000 in any one year for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state; and

(3) was domiciled in a rural opportunity zone during the entire taxable year for which such credit is claimed.

(b) A resident individual may claim the credit authorized by this section for not more than five consecutive years following establishment of their domicile in a rural opportunity zone.

(c) The maximum amount of any refund under this section shall be equal to the amount withheld from the resident individual's wages or payments other than wages pursuant to K.S.A. 79-3294 et seq., and amendments thereto, or paid by the resident individual as estimated taxes pursuant to K.S.A. 79-32,101 et seq., and amendments thereto.

(d) No credit shall be allowed under this section if:

(1) The resident individual's income tax return on which the credit is claimed is not timely filed, including any extension; or

(2) the resident individual is delinquent in filing any return with, or paying any tax due to, the state of Kansas or any political subdivision thereof.

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

Sec. 16. K.S.A. 74-50,222, 74-50,223, 79-3221, 79-32,212 and 79-32,267 are hereby repealed.";

Also on page 4, in line 18, by striking "January 1, 2022, and"; also in line 18, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "income"; also in line 1, after the semicolon by inserting "relating to income tax;"; in line 2, by striking "relating to paid tax return preparers;"; in line 3, after "number" by inserting "of paid tax return preparers"; also in line 3, by striking the semicolon and inserting "and"; in line 5, after "conduct" by inserting "; exempting compensation income attributable as a result of identity fraud; extending the dates when corporate returns are required to be filed; providing conformity with the federal return due date for returns other than corporate returns; providing a temporary withholding option for certain teleworking employees; relating to income and privilege tax credits; establishing an Eisenhower foundation contribution credit and the friends of cedar crest association contribution credit; extending the time period and expanding eligibility for the single city port authority credit; relating to rural opportunity zones; extending the time period for eligibility in the loan repayment program and the income tax credit related thereto; defining rural opportunity zone on the basis of population; amending K.S.A. 74-50,222, 74-50,223, 79-3221, 79-32,212 and 79-32,267 and repealing the existing sections";

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

ADAM SMITH

JIM GARTNER

LES MASON

Conferees on part of House

CARYN TYSON

LARRY ALLEY

TOM HOLLAND

Conferees on part of Senate

Senator Tyson moved the Senate adopt the Conference Committee Report on **SB 47**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 60** submits the following report:

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

On page 1, following line 7, by inserting:

"New Section 1. (a) Sexual extortion is communicating by any means a threat to injure the property or reputation of a person, commit violence against a person, or distribute an image, video or other recording of a person that is of a sexual nature or depicts such person in a state of nudity:

(1) With the intent to coerce such person to: (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature; or

(2) that causes such person to: (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature.

(b) Sexual extortion as defined in:

(1) Subsection (a)(1) is a severity level 7, person felony; and

(2) subsection (a)(2) is a severity level 4, person felony.

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

New Sec. 2. (a) In any prosecution for a crime, a court shall not require or order a victim of the crime to submit to or undergo either a psychiatric or psychological examination.

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

Sec. 3. K.S.A. 2020 Supp. 8-1568 is hereby amended to read as follows: 8-1568.

(a) (1) (A) Any driver of a motor vehicle who ~~willfully~~ knowingly fails or refuses to

bring such driver's vehicle to a stop 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)(B)~~ Any driver of a motor vehicle who ~~willfully~~ knowingly 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)~~ It shall be an affirmative defense to any prosecution under subsection (a)(1) that the driver's conduct in violation of such ~~paragraph~~ subsection 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 of a motor vehicle who ~~willfully~~ knowingly 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, shall be guilty as provided by subsection (c)(2):

(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

(F) is operating a stolen motor vehicle;

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

(3) knowingly drives the wrong way into an opposing lane of travel on a divided highway as defined in K.S.A. 8-1414, and amendments thereto, knowingly departs the appropriate lane of travel into an opposing lane of travel on any roadway causing an evasive maneuver by another driver, knowingly drives through any intersection causing an evasive maneuver by another driver or causes a collision involving another driver, shall be guilty as provided by subsection (c)(3).

(c) (1) ~~Violation of subsection (a), upon is a:~~

(A) ~~First conviction is a Class B nonperson misdemeanor when the person being sentenced has no prior convictions for a violation of subsection (a) or (b);~~

(B) ~~second conviction is a class A nonperson misdemeanor when the person being sentenced has one prior conviction for a violation of subsection (a) or (b); or~~

(C) ~~third or subsequent conviction is a severity level 9, person felony when the person being sentenced has two or more prior convictions for a violation of subsection (a) or (b).~~

(2) Violation of subsection (b)(1) or (b)(2) is a severity level 9, person felony.

(3) Violation of subsection (b)(3) is a severity level 7, person felony.

(4) In addition to the penalty described in paragraph (2), the court shall impose a fine of not less than \$500 when the driver is operating a stolen motor vehicle during the commission of the offense.

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

or siren:

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

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

(e) For the purpose of this section:

(1) "Conviction" means a final conviction without regard to 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. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, it is irrelevant whether an offense occurred before or after conviction for a previous offense.

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

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

On page 2, following line 1, by inserting:

"Sec. 5. K.S.A. 2020 Supp. 21-5505 is hereby amended to read as follows: 21-5505. (a) Sexual battery is the touching of a victim ~~who is not the spouse of the offender~~, who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(b) Aggravated sexual battery is ~~the touching of a victim who is 16 or more years of age and who does not consent thereto with the intent to arouse or satisfy the sexual desires of the offender or another and~~ sexual battery, as defined in subsection (a), under any of the following circumstances:

(1) When the victim is overcome by force or fear;

(2) when the victim is unconscious or physically powerless; or

(3) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c) (1) Sexual battery is a class A person misdemeanor.

(2) Aggravated sexual battery is a severity level 5, person felony.

(d) Except as provided in subsection (b)(3), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the battery, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

Sec. 6. K.S.A. 2020 Supp. 21-5804 is hereby amended to read as follows: 21-5804. (a) In any prosecution under K.S.A. 2020 Supp. 21-5801 through 21-5839, and amendments thereto, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit

thereof:

(1) The giving of a false identification or fictitious name, address or place of employment at the time of buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property;

(2) the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

(4) destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

(5) the failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(6) the failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (A) The time and place to return the vehicle; and (B) that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(7) removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or

(8) under the provisions of K.S.A. 2020 Supp. 21-5801(a)(5), and amendments thereto, the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution for a misdemeanor under K.S.A. 2020 Supp. 21-5801, and amendments thereto, in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

(c) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-5801, and

amendments thereto, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.

(d) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, and such theft is of regulated scrap metal as defined in K.S.A. 2020 Supp. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

(e) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, and such theft is of a motor vehicle as defined in K.S.A. 8-126, and amendments thereto, fleeing or attempting to elude a police officer as defined in K.S.A. 8-1568(a)(1)(B) or (b), and amendments thereto, shall be prima facie evidence of intent to permanently deprive the owner of the motor vehicle of the possession, use or benefit thereof.

(f) As used in this section:

(1) "Notice" means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and

(2) "tampering" includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(B) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(C) preventing any such meters from properly measuring or registering;

(D) knowingly taking, receiving, using or converting to such person's own use, or the use of another;

(i) Any electricity, water or natural gas which that has not been measured; or

(ii) any telephone or cable television service which that has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts described in subparagraphs (A) through (D).

Sec. 7. K.S.A. 2020 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless the context otherwise requires:

- (a) "Offender" means:
- (1) A sex offender;
 - (2) a violent offender;
 - (3) a drug offender;
 - (4) any person who has been required to register under out-of-state law or is otherwise required to be registered; and
 - (5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.
- (b) "Sex offender" includes any person who:
- (1) On or after April 14, 1994, is convicted of any sexually violent crime;
 - (2) on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;
 - (3) has been determined to be a sexually violent predator;
 - (4) on or after July 1, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:
 - (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2020 Supp. 21-5511, and amendments thereto;
 - (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto;
 - (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
 - (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
 - (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513, and amendments thereto;
 - (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;
 - (6) is convicted of sexual extortion, as defined in section 1, and amendments thereto;
 - (7) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or
 - ~~(7)~~(8) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection.
- (c) "Sexually violent crime" means:
- (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments thereto;
 - (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;
 - (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to

its repeal, or K.S.A. 2020 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments thereto;

(7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and amendments thereto;

(8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;

(11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2020 Supp. 21-5509, and amendments thereto;

(12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(14) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto;

(15) promoting the sale of sexual relations, as defined in K.S.A. 2020 Supp. 21-6420, and amendments thereto;

(16) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out-of-state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;

(17) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

(18) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "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.

(d) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(e) "Violent offender" includes any person who:

(1) On or after July 1, 1997, is convicted of any of the following crimes:

(A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

(B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

(C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

(D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2020 Supp. 21-5405(a)(3), and amendments thereto, which occurred on or after July 1, 2011, through July 1, 2013;

(F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(a), and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto;

(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(3) has been convicted of an offense that is comparable to any crime defined in this subsection, any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(f) "Drug offender" includes any person who, on or after July 1, 2007:

(1) Is convicted of any of the following crimes:

(A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2020 Supp. 21-5703, and amendments thereto;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a), and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) which occurred on or after July 1, 2009, through April

15, 2010;

(2) has been convicted of an offense that is comparable to any crime defined in this subsection, any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(3) is or has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out-of-state court shall constitute a conviction or adjudication for purposes of this section.

(h) "School" means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(i) "Employment" means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(j) "Reside" means to stay, sleep or maintain with regularity or temporarily one's person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for three or more consecutive days or parts of days, or for ten or more nonconsecutive days in a period of 30 consecutive days.

(k) "Residence" means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.

(l) "Transient" means having no fixed or identifiable residence.

(m) "Law enforcement agency having initial jurisdiction" means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender's discharge, parole or release.

(n) "Registering law enforcement agency" means the sheriff's office or tribal police department responsible for registering an offender.

(o) "Registering entity" means any person, agency or other governmental unit, correctional facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. "Registering entity" shall include, but not be limited to, sheriff's offices, tribal police departments and correctional facilities.

(p) "Treatment facility" means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counseling, but does not include a hospital, as defined in K.S.A. 65-425, and amendments thereto.

(q) "Correctional facility" means any public or private correctional facility, juvenile detention facility, prison or jail.

(r) "Out-of-state" means: the District of Columbia; any federal, military or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.

(s) "Duration of registration" means the length of time during which an offender is required to register for a specified offense or violation.

(t) (1) Notwithstanding any other provision of this section, "offender" shall not include any person who is:

(A) Convicted of unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2020 Supp. 21-5611(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2020 Supp. 21-5611(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in K.S.A. 2020 Supp. 21-5610, and amendments thereto; ~~or~~

(B) adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a crime defined in subsection (t)(1)(A); or

(C) adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of sexual extortion as defined in section 1, and amendments thereto.

(2) Notwithstanding any other provision of law, a court shall not order any person to register under the Kansas offender registration act for the offenses described in subsection (t)(1).

Sec. 8. K.S.A. 2020 Supp. 22-4906 is hereby amended to read as follows: 22-4906.

(a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2020 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) promoting the sale of sexual relations, as defined in K.S.A. 2020 Supp. 21-6420, and amendments thereto;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;

(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(L) sexual extortion, as defined in section 1, and amendments thereto, when one of the parties involved is less than 18 years of age;

~~(M)~~ any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forceful sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

~~(N)~~ conviction of any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;

~~(O)~~ conviction of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

~~(P)~~ unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2020 Supp. 21-5703, and amendments thereto;

~~(Q)~~ possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a), and amendments thereto;

~~(R)~~ K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and amendments thereto; or

~~(S)~~ any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2020 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the

2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(a), and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto; or

(12) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

(i) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(j) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

(k) For any person moving to Kansas who has been convicted or adjudicated in an out-of-state court, or who was required to register under an out-of-state law, the duration of registration shall be the length of time required by the out-of-state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this subsection shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.

(l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out-of-state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act.";

Also on page 2, in line 2, after "Supp." by inserting "8-1568,"; also in line 2, by striking "is" and inserting ", 21-5505, 21-5804, 22-4902 and 22-4906 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "creating the crime of sexual extortion and requiring registration of offenders; prohibiting a court from

requiring psychiatric or psychological examinations of an alleged victim of any crime; relating to fleeing or attempting to elude a police officer; increasing penalties thereof when operating a stolen motor vehicle, committing certain driving violations or causing a collision involving another driver;"; in line 3, after the semicolon by inserting "removing the spousal exception from the crime of sexual battery; relating to evidence of intent to deprive owner of property for the crime of theft;"; in line 4, after "Supp." by inserting "8-1568, "; also in line 4, after "21-5106" by inserting ", 21-5505, 21-5804, 22-4902 and 22-4906"; in line 5, by striking "section" and inserting "sections";

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

FRED PATTON
BRADLEY RALPH
JOHN CARMICHAEL

Conferees on part of House

KELLIE WARREN
RICK WILBORN
DAVID HALEY

Conferees on part of Senate

Senator Warren moved the Senate adopt the Conference Committee Report on **SB 60**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 170** submits the following report:

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

On page 1, by striking all in lines 9 through 36;

By striking all on pages 2 through 5;

On page 6, by striking all in lines 1 through 4; following line 4 by inserting:

"New Section 1. The board may assess a fee at the time of licensure or license renewal for any person seeking compact privilege to practice under the psychology interjurisdictional compact whose home state is Kansas, in addition to any other fees authorized by law for licensure, not to exceed \$25. The board shall adopt rules and regulations to establish the amount of such fee.

New Sec. 2. This section shall be known and may be cited as the psychology interjurisdictional compact (PSYPACT). This section shall take effect on and after January 1, 2022.

ARTICLE I
PURPOSE

WHEREAS, States license psychologists in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

WHEREAS, This compact is intended to regulate the day-to-day practice of telepsychology, the provision of psychological services using telecommunications technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

WHEREAS, This compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority; and

WHEREAS, This compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state; and

WHEREAS, This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety; and

WHEREAS, This compact does not apply when a psychologist is licensed in both the home and receiving states; and

WHEREAS, This compact does not apply to permanent in-person, face-to-face practice, but it does allow for authorization of temporary psychological practice.

Consistent with these principles, this compact is designed to achieve the following purposes and objectives:

(a) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;

(b) enhance the states' ability to protect the public's health and safety, especially client/patient safety;

(c) encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(d) facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions and disciplinary history;

(e) promote compliance with the laws governing psychological practice in each compact state; and

(f) invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

ARTICLE II
DEFINITIONS

(a) "Adverse action" means any action taken by a state psychology regulatory authority that finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(b) "Association of state and provincial psychology boards" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(c) "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this compact, in another compact state.

(d) "Bylaws" means those bylaws established by the psychology interjurisdictional compact commission pursuant to article X for its governance or for directing and controlling its actions and conduct.

(e) "Client/patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision or consulting services.

(f) "Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to article X.

(g) "Compact state" means a state, the District of Columbia or a United States territory that has enacted this compact legislation and that has not withdrawn pursuant to article XIII(c) or been terminated pursuant to article XII(b).

(h) "Coordinated licensure information system" or "coordinated database" means an integrated process for collecting, storing and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(i) "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

(j) "Day" means any part of a day in which psychological work is performed.

(k) "Distant state" means the compact state where a psychologist is physically present, not through the use of telecommunications technologies, to provide temporary in-person, face-to-face psychological services.

(l) "E.passport" means a certificate issued by the association of state and provincial psychology boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

(m) "Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(n) "Home state" means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the "home state" is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the "home state" is any compact state where the psychologist is licensed.

(o) "Identity history summary" means a summary of information retained by the federal bureau of investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization or military service.

(p) "In-person, face-to-face" means interactions in which the psychologist and the

client/patient are in the same physical space and does not include interactions that may occur through the use of telecommunications technologies.

(q) "Interjurisdictional practice certificate" means a certificate issued by the association of state and provincial psychology boards that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily, and verification of one's qualifications for such practice.

(r) "License" means authorization by a state psychology regulatory authority to engage in the independent practice of psychology that would be unlawful without the authorization.

(s) "Non-compact state" means any state that is not, at the time, a compact state.

(t) "Psychologist" means an individual licensed for the independent practice of psychology.

(u) "Psychology interjurisdictional compact commission" or "commission" means the national administration of which all compact states are members.

(v) "Receiving state" means a compact state where the client/patient is physically located when the telepsychological services are delivered.

(w) "Rule" means a written statement by the psychology interjurisdictional compact commission promulgated pursuant to article XI that:

(1) Is of general applicability;

(2) implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural or practice requirement of the commission;

(3) has the force and effect of statutory law in a compact state; and

(4) includes the amendment, repeal or suspension of an existing rule.

(x) "Significant investigatory information" means:

(1) Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

(2) investigative information that indicates that the psychologist represents an immediate threat to public health and safety, regardless of whether the psychologist has been notified or had an opportunity to respond.

(y) "State" means a state, commonwealth, territory or possession of the United States or the District of Columbia.

(z) "State psychology regulatory authority" means the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

(aa) "Telepsychology" means the provision of psychological services using telecommunications technologies.

(bb) "Temporary authorization to practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this compact, in another compact state.

(cc) "Temporary in-person, face-to-face practice" means a psychologist is physically present, not through the use of telecommunications technologies, in the distant state to provide for the practice of psychology for 30 days within a calendar year and based on notification to the distant state.

ARTICLE III
HOME STATE LICENSURE

(a) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(b) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(c) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(d) Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of this compact.

(e) A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

- (1) Currently requires the psychologist to hold an active e.passport;
- (2) has a mechanism in place for receiving and investigating complaints about licensed individuals;
- (3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
- (4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, not later than 10 years after activation of the compact; and
- (5) complies with the bylaws and rules of the commission.

(f) A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

- (1) Currently requires the psychologist to hold an active interjurisdictional practice certificate;
- (2) has a mechanism in place for receiving and investigating complaints about licensed individuals;
- (3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
- (4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, not later than 10 years after activation of the compact; and
- (5) complies with the bylaws and rules of the commission.

ARTICLE IV
COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

(a) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with article III, to practice telepsychology in other compact states, or receiving states, in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

(b) To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this compact, a psychologist licensed to practice in a compact state shall:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(A) Regionally accredited by an accrediting body recognized by the United States department of education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to subparagraph (A) by a foreign credential evaluation service that is a member of the national association of credential evaluation services or by a recognized foreign credential evaluation service;

(2) hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(B) the psychology program shall stand as a recognizable, coherent, organizational entity within the institution;

(C) there shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines;

(D) the program shall consist of an integrated, organized sequence of study;

(E) there shall be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(F) the designated director of the program shall be a psychologist and a member of the core faculty;

(G) the program shall have an identifiable body of students who are matriculated in that program for a degree;

(H) the program shall include supervised practicum, internship or field training appropriate to the practice of psychology;

(I) the curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; and

(J) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full and unrestricted license to practice psychology in a home state that is a compact state;

(4) have no history of adverse action that violates the rules of the commission;

(5) have no criminal record history reported on an identity history summary that violates the rules of the commission;

(6) possess a current, active e.passport;

(7) provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background and knowledge and adherence to legal requirements in the home and receiving states

and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(c) The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

(d) A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology shall be subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the commission.

(e) If a psychologist's license in any home state or another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended or otherwise limited, the e.passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

(a) Compact states shall also recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice temporarily in other compact states, or distant states, in which the psychologist is not licensed, as provided in the compact.

(b) To exercise the temporary authorization to practice under the terms and provisions of this compact, a psychologist licensed to practice in a compact state shall:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(A) Regionally accredited by an accrediting body recognized by the United States department of education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to subparagraph (A) by a foreign credential evaluation service that is a member of the national association of credential evaluation services or by a recognized foreign credential evaluation service;

(2) hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(B) the psychology program shall stand as a recognizable, coherent, organizational entity within the institution;

(C) there shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines;

(D) the program shall consist of an integrated, organized sequence of study;

(E) there shall be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(F) the designated director of the program shall be a psychologist and a member of the core faculty;

(G) the program shall have an identifiable body of students who are matriculated in that program for a degree;

(H) the program shall include supervised practicum, internship or field training appropriate to the practice of psychology;

(I) the curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees; and

(J) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full and unrestricted license to practice psychology in a home state that is a compact state;

(4) no history of adverse action that violate the rules of the commission;

(5) no criminal record history that violates the rules of the commission;

(6) possess a current, active interjurisdictional practice certificate;

(7) provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(c) A psychologist practicing into a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(d) A psychologist practicing into a distant state under the temporary authorization to practice shall be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the commission.

(e) If a psychologist's license in any home state or another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended or otherwise limited, the interjurisdictional practice certificate shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(a) The psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and

(b) other conditions regarding telepsychology as determined by rules promulgated

by the commission.

ARTICLE VII
ADVERSE ACTIONS

(a) A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall have the power to take adverse action on a psychologist's temporary authorization to practice within that distant state.

(b) A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(c) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e.passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the interjurisdictional practice certificate is revoked.

(1) All home state disciplinary orders that impose adverse action shall be reported to the commission in accordance with the rules promulgated by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(2) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(3) Other actions may be imposed as determined by the rules promulgated by the commission.

(d) A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee that occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

(e) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization practice that occurred in that distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, the distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

(f) Nothing in this compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the compact state's law. Compact states shall require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(g) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (c).

ARTICLE VIII
ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S
PSYCHOLOGY REGULATORY AUTHORITY

In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to:

(a) Issue subpoenas, for both hearings and investigations, that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses or the production of evidence from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence are located; and

(b) issue cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice.

(c) During the course of any investigation, a psychologist may not change such psychologist's home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of such investigation, the psychologist may change the psychologist's home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

ARTICLE IX
COORDINATED LICENSURE INFORMATION SYSTEM

(a) The Commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all individuals to whom this compact is applicable in all compact states as defined by the rules of the commission.

(b) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission, including:

- (1) Identifying information;
- (2) licensure data;
- (3) significant investigatory information;
- (4) adverse actions against a psychologist's license;
- (5) an indicator that a psychologist's authority to practice interjurisdictional

telepsychology or temporary authorization to practice is revoked;

(6) non-confidential information related to alternative program participation information;

(7) any denial of application for licensure and the reasons for such denial; and

(8) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) The coordinated database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(d) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(e) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

ARTICLE X
ESTABLISHMENT OF THE PSYCHOLOGY
INTERJURISDICTIONAL COMPACT COMMISSION

(a) The compact states hereby create and establish a joint public agency known as the psychology interjurisdictional compact commission.

(1) The commission is a body politic and an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) *Membership, voting and meetings.*

(1) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

(A) The executive director, executive secretary or similar executive;

(B) a current member of the state psychology regulatory authority of a compact state; or

(C) a designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(2) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

(3) Each commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by

such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

(4) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in article XI.

(6) The commission may convene in a closed, non-public meeting if the commission must discuss:

(A) Non-compliance of a compact state with its obligations under the compact;
(B) the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation against the commission;
(D) negotiation of contracts for the purchase or sale of goods, services or real estate;

(E) accusation against any person of a crime or formally censuring any person;
(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigatory records compiled for law enforcement purposes;
(I) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or

(J) matters specifically exempted from disclosure by federal and state statute.

(7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken of any person participating in the meeting and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the commissioners, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

(1) Establishing the fiscal year of the commission;
(2) providing reasonable standards and procedures:
(A) For the establishment and meetings of other committees; and
(B) governing any general or specific delegation of any authority or function of the commission;

(3) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such

proceedings and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each commissioner, with no proxy votes allowed;

(4) establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;

(5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(6) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

(7) providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all of its debts and obligations;

(8) the commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the compact states;

(9) the commission shall maintain its financial records in accordance with the bylaws; and

(10) the commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(d) The commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. Such uniform rules shall have the force and effect of law and shall be binding in all compact states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept or contract for services of personnel, including, but not limited to, employees of a compact state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any real or personal property, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any real or personal property, or mixed;

- (9) to establish a budget and make expenditures;
- (10) to borrow money;
- (11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, consumer representatives and such other interested persons as may be designated in this compact and the bylaws;
- (12) to provide and receive information from, and to cooperate with, law enforcement agencies;
- (13) to adopt and use an official seal; and
- (14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

(e) *The executive board.* The elected officers shall serve as the executive board, and the executive board shall have the power to act on behalf of the commission according to the terms of this compact.

- (1) The executive board shall be comprised of six members:
 - (A) Five voting members who are elected from the current membership of the commission by the commission; and
 - (B) one ex-officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.
- (2) The ex-officio member shall have served as staff or member on a state psychology regulatory authority and shall be selected by its respective organization.
- (3) The commission may remove any member of the executive board as provided in bylaws.
- (4) The executive board shall meet at least annually.
- (5) The executive board shall have the following duties and responsibilities:
 - (A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact states, such as annual dues and any other applicable fees;
 - (B) ensure compact administration services are appropriately provided, contractual or otherwise;
 - (C) prepare and recommend the budget;
 - (D) maintain financial records on behalf of the commission;
 - (E) monitor compact compliance of member states and provide compliance reports to the commission;
 - (F) establish additional committees as necessary; and
 - (G) other duties as provided in rules or bylaws.
- (f) *Financing of the commission.*
 - (1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
 - (2) The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.
 - (3) The commission may levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, and the commission shall promulgate a

rule binding upon all compact states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(g) *Qualified immunity, defense and indemnification.*

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities: *Provided*, That nothing herein shall be construed to prohibit that person from retaining such person's own counsel: *And provided further*, That the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compact state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission; and
(2) on the website of each compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons who submit comments independently of each other;

(2) a governmental subdivision or agency; or

(3) a duly appointed person in an association that has at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) No transcript of the hearing is required unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This paragraph shall not preclude the commission from making a transcript or recording of the hearing if the commission so chooses.

(4) Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) If no written notice of intent to attend the public hearing by interested parties is

received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) Meet an imminent threat to public health, safety or welfare;
- (2) prevent a loss of commission or compact state funds;
- (3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (4) protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) *Oversight.*

(1) The executive, legislative and judicial branches of state government in each compact state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) *Default, technical assistance and termination.*

(1) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default and any other action to be taken by the commission; and

(B) provide remedial training and specific technical assistance regarding the

default.

(2) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges and benefits conferred by this compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the commission to the governor and the majority and minority leaders of the defaulting state's legislature and each of the compact states.

(4) A compact state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs incurred by the state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the state of Georgia or the federal district where the compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) *Dispute resolution.*

(1) Upon request by a compact state, the commission shall attempt to resolve disputes related to the compact that arise among compact states and between compact and non-compact states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(d) *Enforcement.*

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the state of Georgia or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE XIII
DATE OF IMPLEMENTATION OF THE PSYCHOLOGY
INTERJURISDICTIONAL COMPACT COMMISSION AND
ASSOCIATED RULES, WITHDRAWAL AND AMENDMENTS

(a) The compact shall come into effect on the date on which the compact is enacted into law in the 7th compact state. The provisions that become effective at that time shall be limited to the powers granted to the commission relating to assembly and the

promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(c) Any compact state may withdraw from this compact by enacting a statute repealing the same.

(1) A compact state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a non-compact state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the compact states. No amendment to this compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

ARTICLE XIV CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining compact states.

New Sec. 3. This section shall be known and may be cited as the physical therapy licensure compact.

SECTION 1.

PURPOSE

(a) The purpose of this compact is to facilitate the interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

(b) This compact is designed to achieve the following objectives:

(1) Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

(2) enhance the states' ability to protect the public's health and safety;

(3) encourage the cooperation of member states in regulating multi-state physical therapy practice;

(4) support spouses of relocating military members;

(5) enhance the exchange of licensure, investigative and disciplinary information between member states; and

(6) allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

SECTION 2.

DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

(a) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.

(b) "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

(c) "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

(d) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient or client is located at the time of the patient or client encounter.

(e) "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, or both, educational and professional activities relevant to practice or the area of work.

(f) "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege and adverse action.

(g) "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

(h) "Executive board" means a group of directors elected or appointed to act on behalf of and, within the powers granted to them, by the commission.

(i) "Home state" means the member state that is the licensee's primary state of residence.

(j) "Investigative information" means information, records and documents received or generated by a physical therapy licensing board pursuant to an investigation.

(k) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

(l) "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

(m) "Member state" means a state that has enacted the compact.

(n) "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

(o) "Physical therapist" means an individual who is licensed by a state to practice physical therapy.

(p) "Physical therapist assistant" means an individual who is licensed or certified by a state and who assists the physical therapist in selected components of physical therapy.

(q) "Physical therapy," "physical therapy practice," and "the practice of physical therapy" means the care and services provided by or under the direction and supervision

of a licensed physical therapist.

(r) "Physical therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(s) "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

(t) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

(u) "Rule" means a rule, regulation, principle or directive promulgated by the commission that has the force of law.

(v) "State" means any state, commonwealth, district or territory of the United States that regulates the practice of physical therapy.

SECTION 3.

STATE PARTICIPATION IN THE COMPACT

(a) To participate in the compact, a state must:

(1) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) have a mechanism in place for receiving and investigating complaints about licensees;

(3) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(4) fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions in accordance with this compact;

(5) comply with the rules of the commission;

(6) utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(7) have continuing competence requirements as a condition for license renewal.

(b) Upon adoption of this compact, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the federal bureau of investigation for a criminal background check in accordance with 28 U.S.C. § 534 and 42 U.S.C. § 14616.

(c) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

(d) Member states may charge a fee for granting a compact privilege.

SECTION 4.

COMPACT PRIVILEGE

(a) To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(1) Hold a license in the home state;

(2) have no encumbrance on any state license;

(3) be eligible for a compact privilege in any member state in accordance with section 4(d), (g) and (h);

(4) have not had any adverse action against any license or compact privilege within the previous two years;

(5) notify the commission that the licensee is seeking the compact privilege within a remote state;

(6) pay any applicable fees, including any state fee, for the compact privilege;

(7) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and

(8) report to the commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

(b) The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of section 4(a) to maintain the compact privilege in the remote state.

(c) A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(d) A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time or impose fines, or both, and may take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(e) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(1) The home state license is no longer encumbered; and

(2) two years have elapsed from the date of the adverse action.

(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section 4(a) to obtain a compact privilege in any remote state.

(g) If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

(1) The specific period of time for which the compact privilege was removed has ended;

(2) all fines have been paid; and

(3) two years have elapsed from the date of the adverse action.

(h) Once the requirements of section 4(g) have been met, the licensee must meet the requirements in section 4(a) to obtain a compact privilege in a remote state.

SECTION 5.

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

(a) Home of record;

(b) permanent change of station (PCS); or

(c) state of current residence, if it is different than the PCS state or home of record.

SECTION 6.

ADVERSE ACTIONS

(a) A home state shall have exclusive power to impose adverse action against a license issued by the home state.

(b) A home state may take adverse action based on the investigative information of

a remote state, so long as the home state follows its own procedures for imposing adverse action.

(c) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

(d) Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

(e) A remote state shall have the authority to:

(1) Take adverse actions as set forth in section 4(d) against a licensee's compact privilege in the state;

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence, or both, from another party state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before that court. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence, or both, are located; and

(3) if otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(f) Joint investigations:

(1) In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

SECTION 7.

ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

(a) The compact member states hereby create and establish a joint public agency known as the physical therapy compact commission:

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting, and meetings:

(1) Each member state shall have and be limited to one delegate selected by that

member state's licensing board.

(2) The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member or the board administrator.

(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(4) The member state board shall fill any vacancy occurring in the commission.

(5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(c) The commission shall have the following powers and duties:

(1) Establish the fiscal year of the commission;

(2) establish bylaws;

(3) maintain its financial records in accordance with the bylaws;

(4) meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(5) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(6) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

(7) purchase and maintain insurance and bonds;

(8) borrow, accept or contract for services of personnel including, but not limited to, employees of a member state;

(9) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(10) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, utilize and dispose of the same, except that at all times the commission shall avoid any appearance of impropriety or conflict of interest, or both;

(11) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, except that at all times the commission shall avoid any appearance of impropriety;

(12) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(13) establish a budget and make expenditures;

(14) borrow money;

(15) appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives and such other interested persons as may be designated in this compact and the bylaws;

(16) provide and receive information from, and cooperate with, law enforcement agencies;

(17) establish and elect an executive board; and

(18) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physical therapy licensure and practice.

(d) The executive board shall have the power to act on behalf of the commission according to the terms of this compact.

(1) The executive board shall be comprised of nine members:

(A) Seven voting members, who are elected by the commission from the current membership of the commission;

(B) one ex-officio, non-voting member from the recognized national physical therapy professional association; and

(C) one ex-officio, non-voting member from the recognized membership organization of the physical therapy licensing boards.

(2) The ex-officio members will be selected by their respective organizations.

(3) The commission may remove any member of the executive board as provided in the bylaws.

(4) The executive board shall meet at least annually.

(5) The executive board shall have the following duties and responsibilities:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues and any commission compact fee charged to licensees for the compact privilege;

(B) ensure compact administration services are appropriately provided, contractual or otherwise;

(C) prepare and recommend the budget;

(D) maintain financial records on behalf of the commission;

(E) monitor compact compliance of member states and provide compliance reports to the commission;

(F) establish additional committees as necessary; and

(G) other duties as provided in rules or bylaws.

(e) Meetings of the commission:

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 9.

(2) The commission or the executive board or other committees of the commission may convene in a closed, non-public meeting, if the commission or executive board or other committees of the commission must discuss:

(A) Non-compliance of a member state with its obligations under the compact;

(B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigative records compiled for law enforcement purposes;

(I) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(J) matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(f) Financing of the commission:

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(g) Qualified immunity, defense and indemnification:

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities, except that nothing in this paragraph shall be construed to protect any such person from suit or liability, or both, for any damage, loss, injury or liability

caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, except that nothing herein shall be construed to prohibit that person from retaining such person's own counsel and except that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, so long as the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 8.

DATA SYSTEM

(a) The commission shall provide for the development, maintenance and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (1) Identifying information;
- (2) licensure data;
- (3) adverse actions against a license or compact privilege;
- (4) non-confidential information related to alternative program participation;
- (5) any denial of application for licensure, and the reason for such denial; and
- (6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) Investigative information pertaining to a licensee in any member state will only be available to other party states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 9.

RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

- (1) On the website of the commission or other publicly accessible platform; and
- (2) on the website of each member state's physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

- (1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
- (2) the text of the proposed rule or amendment and the reason for the proposed rule;
- (3) a request for comments on the proposed rule from any interested person; and
- (4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

- (1) At least 25 persons;
- (2) a state or federal governmental subdivision or agency; or
- (3) an association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission, or other designated member, in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings will be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, so long as the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) Meet an imminent threat to public health, safety or welfare;
- (2) prevent a loss of commission or member state funds;
- (3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (4) protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

SECTION 10.

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) Oversight:

(1) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination:

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated

rules, the commission shall:

(A) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission; and

(B) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member state shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) Dispute resolution:

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(d) Enforcement:

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

SECTION 11.

DATE OF IMPLEMENTATION OF THE INTERSTATE
COMMISSION FOR PHYSICAL THERAPY PRACTICE AND
ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the 10th member state. The provisions that become effective at that time shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12.

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

New Sec. 4. (a) As part of an original application for a license as a physical therapist or a certificate as a physical therapy assistant or as part of an original application for reinstatement of a license or certificate or in connection with any investigation of any holder of a license or certificate, the state board of healing arts may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of healing arts is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of healing arts may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and

fitness of the person to be issued or to maintain a license or certificate.

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

(c) The state board of healing arts may fix and collect a fee as may be required by the board in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the healing arts fee fund.

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

Sec. 5. K.S.A. 65-2912 is hereby amended to read as follows: 65-2912. (a) The board may refuse to grant a license to any physical therapist or a certificate to any physical therapist assistant, ~~or~~ may suspend or revoke the license or compact privilege of any licensed physical therapist or certificate or compact privilege of any certified physical therapist assistant, ~~or~~ may limit the license or compact privilege of any licensed physical therapist or certificate or compact privilege of any certified physical therapist assistant or may censure a licensed physical therapist or certified physical therapist assistant for any of the following grounds:

(1) Addiction to or distribution of intoxicating liquors or drugs for other than lawful purposes;

(2) conviction of a felony if the board determines, after investigation, that the physical therapist or physical therapist assistant has not been sufficiently rehabilitated to warrant the public trust;

(3) obtaining or attempting to obtain licensure or certification by fraud or deception;

(4) finding by a court of competent jurisdiction that the physical therapist or physical therapist assistant is a disabled person and has not thereafter been restored to legal capacity;

(5) unprofessional conduct as defined by rules and regulations adopted by the board;

(6) the treatment or attempt to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this act;

(7) failure to refer patients to other ~~health care~~ healthcare providers if symptoms are present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the scope of knowledge of the licensed physical therapist;

(8) evaluating or treating patients in a manner not consistent with K.S.A. 65-2921, and amendments thereto; and

(9) knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) All proceedings pursuant to article 29 of chapter 65 of the Kansas Statutes Annotated, and ~~acts amendatory of the provisions thereof or supplemental amendments~~ thereto, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

Sec. 6. K.S.A. 65-2920 is hereby amended to read as follows: 65-2920. Professional liability insurance coverage shall be maintained in effect by each licensed physical therapist actively practicing in this state, including each physical therapist licensed in a home state and practicing in this state under the physical therapy licensure compact, as a condition to rendering professional services as a physical therapist in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

Sec. 7. K.S.A. 65-2923 is hereby amended to read as follows: 65-2923. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist, including a physical therapist licensed in a home state and practicing in this state under the physical therapy licensure compact.

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

Also on page 6, in line 5, by striking "75-5664 and 75-5665" and inserting "65-2912, 65-2920 and 65-2923"; in line 7, by striking "Kansas register" and inserting "statute book";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 through 4; in line 5, by striking all before "amending" and inserting "the practice and licensing of health professions; relating to the enactment of compacts; enacting the psychology interjurisdictional compact; providing for the interjurisdictional authorization to practice telepsychology and temporary in-person, face-to-face psychology; enacting the physical therapy licensure compact; providing for interstate practice authority for physical therapy in compact states; authorizing criminal history record checks for physical therapist licensure;"; in line 6, by striking all before the second "and" and inserting "65-2912, 65-2920 and 65-2923";

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

BRENDA LANDWEHR

JOHN EPLEE

BRETT PARKER

Conferees on part of House

RICHARD HILDERBRAND

BEVERLY GOSSAGE

PAT PETTEY

Conferees on part of Senate

Senator Hilderbrand moved the Senate adopt the Conference Committee Report on **SB 170**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **Sub SB 238** submits the following report:

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

On page 1, by striking all in lines 17 through 34;

By striking all on pages 2 through 34;

On page 35, by striking all in lines 1 through 10; following line 10, by inserting:

"New Section 1. (a) Any complaint, investigation, report, record or other information relating to a complaint or investigation that is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner that identifies or enables identification of the person who is the subject or source of the information, except the information may be disclosed:

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

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

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct that would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be disclosed by the receiving agency except as otherwise authorized by law.

(b) Except as provided in subsection (a), no applicant, registrant or individual shall have access to any complaint, investigation, report, record or information concerning a complaint or investigation in progress until the investigation and any enforcement action is completed. This section shall not be construed to authorize the release of records, reports or other information that are subject to other specific state or federal laws concerning their disclosure.

(c) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 2. (a) (1) As a condition of probation or other disciplinary action under K.S.A. 65-1627 or 65-1657, and amendments thereto, the board may require that a licensee or registrant be subject to additional compliance inspections or audits and pay the actual costs of such inspections and audits.

(2) If a licensee or registrant fails to comply with a board order regarding the costs of additional inspections and audits, the board may impose additional disciplinary action against the licensee or registrant for failure to comply with a lawful order of the board under K.S.A. 65-1627, and amendments thereto.

(b) Actual costs under this section include, but are not limited to:

- (1) Salaries and wages;
- (2) travel, mileage and lodging;
- (3) subsistence allowances;

- (4) document storage, shipping and handling; or
- (5) other expenses deemed reasonable and necessary by the board.
- (c) All moneys assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and deposited in the state treasury to the credit of the state board of pharmacy fee fund.
- (d) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 3. (a) As used in this section:

(1) "Telepharmacy" means the practice of pharmacy by a pharmacist located in Kansas using telecommunications or other automations and technologies to deliver personalized, electronically documented, real-time pharmaceutical care to patients or their agents, who are located at sites other than where the pharmacist is located, including prescription dispensing and counseling and to oversee and supervise telepharmacy outlet operations.

(2) "Telepharmacy outlet" means a pharmacy site located in Kansas that:

- (A) Is registered as a pharmacy under the act;
- (B) is owned by the managing pharmacy;
- (C) is connected via computer link, video link and audio link or other functionally equivalent telecommunications equipment with a supervising pharmacy located in Kansas; and
- (D) has a pharmacy technician on site who performs activities under the electronic supervision of a pharmacist located in Kansas.

(b) A pharmacist shall be in attendance at the telepharmacy outlet by connecting to the telepharmacy outlet via computer link, video link and audio link or other functionally equivalent telecommunications equipment and shall be available to consult with and assist the pharmacy technician in performing activities.

(c) Not later than January 1, 2023, the board shall adopt rules and regulations necessary to specify additional criteria for a managing pharmacy and telepharmacy outlet under this section, including, but not limited to:

- (1) Application requirements;
- (2) structural, security, technology and equipment requirements;
- (3) staffing, training and electronic supervision requirements;
- (4) inventory record keeping and storage requirements;
- (5) labeling requirements;
- (6) establishment of policies and procedures;
- (7) the number of telepharmacy outlets that may be operated by a supervising pharmacy;
- (8) use of automated dispensing machines; and
- (9) criteria for requesting exemptions or waivers from the requirements set forth in rules and regulations adopted under this subsection.

(d) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 4. (a) The board shall require an applicant for registration as a manufacturer or virtual manufacturer under K.S.A. 65-1643, and amendments thereto, or an applicant for renewal of such a registration, to provide the following information:

- (1) The name, full business address and telephone number of the applicant;

- (2) all trade or business names used by the applicant;
- (3) all addresses, telephone numbers and the names of contact individuals for all facilities used by the applicant for the storage, handling and distribution of prescription drugs or devices;
- (4) the type of ownership or operation of the applicant;
- (5) the name of the owner or operator of the applicant, including:
 - (A) If an individual, the name of the individual;
 - (B) if a partnership, the name of each partner and the name of the partnership;
 - (C) if a corporation, the name and title of each corporate officer and director of the corporation and the name of the state of incorporation; or
 - (D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and
- (6) any other information as the board deems appropriate.

Changes in any information in this subsection shall be submitted to the board in a form and manner prescribed by the board.

(b) In reviewing the qualifications for applicants for initial registration or renewal of registration as a manufacturer or virtual manufacturer, the board shall consider the following factors:

- (1) Any convictions of the applicant under any federal, state or local laws relating to drug samples, manufacture of drugs or devices, wholesale or retail drug distribution or distribution of controlled substances;
- (2) any felony convictions of the applicant under federal or state laws;
- (3) the applicant's past experience in the manufacture or distribution of prescription drugs including controlled substances;
- (4) the furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;
- (5) discipline, censure, warning, suspension or revocation by federal, state or local government of any license or registration currently or previously held by the applicant for the manufacture or distribution of any drugs including controlled substances;
- (6) compliance with registration requirements under previously granted registrations, if any;
- (7) compliance with requirements to maintain or make available to the board or to the federal, state or local law enforcement officials those records required by the federal food, drug and cosmetic act, and rules and regulations adopted pursuant thereto; and
- (8) any other factors or qualifications deemed by the board to be relevant to and consistent with the public health and safety.

(c) After consideration of the qualifications for applicants for registration as a manufacturer or virtual manufacturer, the board may deny an initial application for registration or application for renewal of a registration if the board determines that the granting of such registration would not be in the public interest. The authority of the board under this subsection to deny a registration as a manufacturer or virtual manufacturer shall be in addition to the authority of the board under K.S.A. 65-1627(f) and 65-1645(e), and amendments thereto.

(d) The board by rules and regulations shall require that personnel employed by persons registered as a manufacturer or virtual manufacturer have appropriate education or experience to assume responsibility for positions related to compliance with state registration requirements.

(e) The board by rules and regulations may implement this section to conform to any requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq., in effect on July 1, 2021.

(f) Each facility that manufactures drugs or devices shall undergo an inspection by the board or a third party recognized by the board prior to initial registration and periodically thereafter in accordance with a schedule to be determined by the board but not less than once every three years. The board shall adopt rules and regulations not later than July 1, 2022, to establish standards and requirements for the issuance and maintenance of a manufacturer and virtual manufacturer registration, including inspections.

(g) The board may register a manufacturer or virtual manufacturer that is licensed or registered under the laws of another state if:

(1) The requirements of that state are deemed by the board to be substantially equivalent to the requirements of this state; or

(2) the applicant is inspected by a third party recognized and approved by the board.

(h) The board by rule and regulation shall establish standards and requirements for the issuance and maintenance of a manufacturer and virtual manufacturer registration, including, but not limited to, requirements regarding the following:

- (1) An application and renewal fee;
- (2) a surety bond;
- (3) registration and periodic inspections;
- (4) certification of a designated representative;
- (5) designation of a registered agent;
- (6) storage of drugs and devices;
- (7) handling, transportation and shipment of drugs and devices;
- (8) security;
- (9) examination of drugs and devices and treatment of those found to be unacceptable as defined by the board;
- (10) due diligence regarding other trading partners;
- (11) creation and maintenance of records, including transaction records;
- (12) procedures for operation; and
- (13) procedures for compliance with the requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq.

(i) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 5. K.S.A. 65-636 is hereby amended to read as follows: 65-636. It shall be unlawful for any ~~person~~, individual who is not legally licensed as a pharmacist by the state board of pharmacy; or any ~~person~~ individual, firm or corporation who does not have in continuous employ, at each place of business, a pharmacist licensed by the state board of pharmacy, to take, use or exhibit the title "drugstore," "pharmacy" or "apothecary" or any combination of such titles, or any title or description of like import, or any other term designed to take the place of such title, if such title is being used in the context of health, medical or pharmaceutical care and the individual, firm or corporation has not provided a disclaimer sufficient to notify consumers that a pharmacist is not employed.

Sec. 6. K.S.A. 2020 Supp. 65-1626 is hereby amended to read as follows: 65-1626.

For the purposes of this act As used in the pharmacy act of the state of Kansas:

(a) "Address" means, with respect to prescriptions, the physical address where a patient resides, including street address, city and state.

(b) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a or K.S.A.2020 Supp. 65-16,129, and amendments thereto.

~~(b)~~(c) "Agent" means an authorized person who acts on behalf of or at the direction of a—manufacturer, repackager, wholesale distributor, third-party logistics provider or dispenser but does not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

~~(e)~~ "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Automated dispensing system" means a robotic or mechanical system controlled by a computer that: (1) Performs operations or activities, other than compounding or administration, relative to the storage, packaging, labeling, dispensing or distribution of drugs; (2) collects, controls and maintains all transaction information; and (3) operates in accordance with the board's rules and regulations.

(e) "Biological product" means the same as defined in 42 U.S.C. § 262(i), as in effect on January 1, 2017.

(f) "Board" means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(g) "Brand exchange," in the case of a drug prescribed, means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed, and in the case of a biological product prescribed, means the dispensing of an interchangeable biological product.

(h) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(i) "Co-licensed partner" means a person or pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer or an affiliate of the manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a product.

(j) "Common carrier" means any person who undertakes, whether directly or by any other arrangement, to transport property, including drugs, for compensation.

(k) (1) "Compounding" means the combining of components into a compounded preparation under either of the following conditions:

~~(1)~~(A) As the result of a practitioner's prescription drug order or initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice to meet the specialized medical need of an individual patient of the practitioner that cannot be filled by an FDA-approved drug; or

~~(2)~~(B) for the purpose of, or incidental to, research, teaching or chemical analysis, and not for sale or dispensing.

(2) Compounding includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed prescribing patterns.

(3) Compounding does not include reconstituting any ~~oral or topical~~ mixed drug according to the FDA-approved labeling for the drug ~~or preparing any sterile or nonsterile preparation that is essentially a copy of a commercially available product.~~

(l) "Current good manufacturing practices" or "CGMP" means the requirements for ensuring that drugs and drug products are consistently manufactured, repackaged, produced, stored and dispensed in accordance with 21 C.F.R. §§ 207, 210 and 211.

(m) "DEA" means the ~~U.S.~~ United States department of justice, drug enforcement administration.

~~(m)(n)~~ (n) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(o) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including a component part or accessory that:

(1) (A) Is recognized in the official national formulary, or the United States pharmacopoeia, or any supplement thereof;

(B) is intended for use in the diagnosis of disease or other conditions;

(C) is used for the cure, mitigation, treatment or prevention of disease in human or other animals; or

(D) is intended to affect the structure or any function of the body of human or other animals; and

(2) (A) does not achieve its primary intended purposes through chemical action within or on the body of human or other animals; and

(B) is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

~~(n)(p)~~ (p) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a ~~pharmacy student pharmacist intern~~ or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, be readily and immediately available at all time activities are performed, provide personal assistance, direction and approval throughout the time the activities are performed and complete the final check before dispensing.

~~(o)(q)~~ (q) "Dispense" or "dispensing" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner, including, but not limited to, delivering prescription medication to a patient by mail, common carrier, personal delivery or third-party delivery to any location requested by the patient.

~~(p)(r)~~ (r) "Dispenser" means:

(1) A practitioner or pharmacist who dispenses prescription ~~medication, drugs or devices~~ or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto; or

(2) a retail pharmacy, hospital pharmacy or group of pharmacies under common ownership and control that do not act as a wholesale distributor, ~~or affiliated warehouses or distribution centers of such entities under common ownership and control that do not act as a wholesale distributor.~~

~~(s)~~(s) "Distribute" or "distribution" means to deliver, offer to deliver, sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store or receive, other than by administering or dispensing, any product, but does not include dispensing a product pursuant to a prescription executed in accordance with 21 U.S.C. § 353 or the dispensing of a product approved under 21 U.S.C. § 360b.

~~(t)~~(t) "Distributor" means a person or entity that distributes a drug or device.

~~(u)~~(u) "Diversion" means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

~~(v)~~(v) "Drop shipment" means the sale, by a manufacturer, repackager or exclusive distributor, of the manufacturer's prescription drug to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the dispenser, and the dispenser receives delivery of the prescription drug directly from the manufacturer, repackager, third-party logistics provider or exclusive distributor, of such prescription drug.

~~(w)~~(w) "Drug" means: (1) Articles recognized in the official United States pharmacopeia, or other such official compendiums of the United States, or official national formulary, or any supplement to any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of human or other animals; and (4) articles intended for use as a component of any articles specified in paragraph (1), (2) or (3); but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

~~(x)~~(x) "Durable medical equipment" means equipment that: (1) Provides therapeutic benefits or enables an individual to perform certain tasks that the individual is unable to otherwise undertake due to certain medical conditions or illnesses; (2) is primarily and customarily used to serve a medical purpose; (3) generally is not useful to a person in the absence of an illness or injury; (4) can withstand repeated use; (5) is appropriate for use in the home, long-term care facility or medical care facility, but may be transported to other locations to allow the individual to complete instrumental activities of daily living that are more complex tasks required for independent living; and (6) may include devices and medical supplies or other similar equipment determined by the board in rules and regulations adopted by the board.

~~(y)~~(y) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

~~(z)~~(z) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

~~(aa)~~(aa) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions that identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

~~(bb)~~(bb) "Electronic transmission" means the transmission of an electronic

prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

~~(z)~~(cc) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

~~(aa)~~(dd) "Exclusive distributor" means the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer's product to a subsequent repackager, wholesale distributor or dispenser.

~~(bb)~~(ee) "FDA" means the U.S. United States department of health and human services, food and drug administration.

~~(ee)~~(ff) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

~~(dd)~~(gg) "Generic name" means the established chemical name or official name of a drug or drug product.

~~(ee)~~(hh) "Health care entity" means any person that provides diagnostic, medical, surgical or dental treatment or rehabilitative care but does not include any retail pharmacy or wholesale distributor.

~~(ff)~~(ii) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and that is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile correctional facility or juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code in K.S.A. 2020 Supp. 38-2302, and amendments thereto;

(C) students of a public or private university or college, a community college or any other institution of higher learning that is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

~~(gg)~~(jj) "Interchangeable biological product" means a biological product that the FDA has:

~~(1) Licensed and determined meets identified in the "purple book: lists of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations" as meeting the standards for "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on January 1, 2017; or~~

~~(2) determined to be therapeutically equivalent as set forth in the latest edition or supplement to the FDA's approved drug products with therapeutic equivalence~~

evaluations:

~~(hh)~~ "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

~~(ii)~~(kk) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensed partners.

~~(jj)~~(ll) "Label" means a display of written, printed or graphic matter upon the immediate container of any drug.

~~(kk)~~(mm) "Labeling" means the process of preparing and affixing a label to any drug container, exclusive of the labeling by a manufacturer, packer or distributor of a non-prescription drug or commercially packaged legend drug.

~~(H)~~(nn) "Long-term care facility" means "nursing facility," as defined in K.S.A. 39-2923, and amendments thereto.

~~(mm)~~(oo) "Medical care facility" means the same as defined in K.S.A. 65-425, and amendments thereto, except that the term also includes ~~facilities licensed under the provisions of K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto, except community mental health centers and facilities for people with intellectual disability~~ psychiatric hospitals and psychiatric residential treatment facilities as defined by K.S.A. 2020 Supp. 39-2002, and amendments thereto.

~~(nn)~~(pp) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical or biological synthesis or by a combination of extraction and chemical or biological synthesis or the packaging or repackaging of the drug or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

~~(oo)~~(qq) "Manufacturer" means:

(1) A person that holds an application approved under section 505 of the federal food, drug and cosmetic act or a license issued under section 351 of the federal public health service act for such drug or, if such drug is not the subject of an approved application or license, the person who manufactured the drug;

(2) a co-licensed partner of the person described in paragraph (1) that obtains the drug directly from a person described in paragraph (1) or (3); or

(3) an affiliate of a person described in paragraph (1) or (2) that receives the product directly from a person described in paragraph (1) or (2).

~~(pp)~~(rr) "Medication order" means ~~an order by a prescriber for a registered patient~~

~~of a Kansas licensed medical care facility a written or oral order by a prescriber or the prescriber's authorized agent for administration of a drug or device to a patient in a Kansas licensed medical care facility or in a Kansas licensed nursing facility or nursing facility for mental health, as such terms are defined by K.S.A. 39-923, and amendments thereto.~~

~~(qq)~~(ss) "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

~~(rr)~~(tt) "Nonresident pharmacy" means a pharmacy located outside of Kansas.

~~(ss)~~(uu) "Outsourcing facility" ~~or "virtual outsourcing facility"~~ means a facility at one geographic location or address that is engaged in the compounding of sterile drugs and has registered with the FDA as an outsourcing facility pursuant to 21 U.S.C. § 353b.

~~(tt)~~(vv) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

~~(uu)~~(ww) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

~~(vv)~~(xx) "Pharmacist-in-charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

~~(ww)~~(yy) "Pharmacist intern" ~~or "intern"~~ means: (1) A student currently enrolled in and in good standing with an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States that is not accredited and who has successfully passed equivalency examinations approved by the board.

~~(xx)~~(zz) "Pharmacy," "drugstore" or "apothecary" means premises, laboratory, area or other place, including any electronic medium: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; (2) that has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import ~~either in English or in any language or on~~ any sign containing any of these words as used in the context of health, medical or pharmaceutical care or services; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited in the context of health, medical or pharmaceutical care or services. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business

registered by the board at the address for which the registration was issued.

(yy)(aaa) "Pharmacy prescription application" means software that is used to process prescription information, ~~is and is either~~ installed on a pharmacy's computers or servers and is controlled by the pharmacy or is maintained on the servers of an entity that sells electronic pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(zz)(bbb) "Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy-related duties, but who does not perform duties restricted to a pharmacist.

(aaa)(ccc) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(bbb)(ddd) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises ~~students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist and is responsible for the actions of pharmacist interns obtaining pharmaceutical experience.~~

(eee)(eee) "Prescriber" means a practitioner or a mid-level practitioner.

(ddd)(fff) "Prescription" or "prescription order" means: ~~(1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber's professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form the front and back of a lawful written, electronic or facsimile order from a prescriber or an oral order from a prescriber or the prescriber's authorized agent that communicates the prescriber's instructions for a prescription drug or device to be dispensed.~~

(eee)(ggg) "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

(fff)(hhh) "Prescription-only drug" means any drug whether intended for use by human or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ggg)(iii) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(hhh)(jii) "Product" means the same as defined by part H of the federal drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. § 360eee.

(iii)(III) "Professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of

pharmaceutical care to a degree that constitutes gross negligence, as determined by the board;

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

(3) a pattern of pharmacy practice or other behavior that demonstrates a manifest incapacity or incompetence to practice pharmacy.

~~(jjj)(mmm)~~ "Readily retrievable" or "readily available" means that records kept in hard copy or by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records quickly and easily during an inspection or investigation, or within a reasonable time not to exceed 48 hours of a written request from the board or other authorized agent ~~or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.~~

~~(HH)(nnn)~~ "Repackage" means changing the container, wrapper, quantity or label of a drug to further the distribution of the drug.

~~(mmm)(ooo)~~ "Repackager" means a person who owns or operates a facility that repackages.

~~(nnn)(ppp)~~ "Retail dealer" means a person selling at retail nonprescription drugs that are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

~~(ooo)~~ "~~Return~~" means ~~providing product to the authorized immediate trading partner from whom such product was purchased or received, or to a returns processor or reverse logistics provider for handling of such product.~~

~~(ppp)(qqq)~~ "~~Returns processor~~" or "~~reverse logistics provider~~Reverse distributor" means a person who owns or operates an establishment that disposes of or otherwise processes saleable or nonsaleable products received from an authorized trading partner such that the product may be processed for credit to the purchaser, manufacturer or seller or disposed of for no further distribution.

~~(qqq)(rrr)~~ "Secretary" means the executive secretary of the board.

~~(rrr)(sss)~~ "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistic services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor or dispenser, but does not take ownership of the product or have responsibility to direct the sale or disposition of the product.

~~(sss)(ttt)~~ "Trading partner" means:

(1) A manufacturer, repackager, wholesale distributor or dispenser from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct ownership of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct ownership of a product; or

(2) a third-party logistics provider from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct possession of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct possession of a product.

~~(ttt)~~(uuu) "Transaction" means the transfer of product between persons in which a change of ownership occurs.

~~(uuu)~~(vvv) "Unprofessional conduct" means:

- (1) Fraud in securing a registration or permit;
- (2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;
- (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;
- (4) intentionally falsifying or altering records or prescriptions;
- (5) unlawful possession of drugs and unlawful diversion of drugs to others;
- (6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;
- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or
- (10) performing unnecessary tests, examinations or services that have no legitimate pharmaceutical purpose.

~~(vvv)~~(www) "Vaccination protocol" means a written protocol, agreed to and signed by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, that establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

~~(www)~~(xxx) "Valid prescription order" means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

~~(xxx)~~(yyy) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

~~(zzz)~~ "Virtual manufacturer" means an entity that engages in the manufacture of a drug or device for which it:

(1) Owns the new drug application or abbreviated new drug application number, if a prescription drug;

(2) owns the unique device identification number, as available, for a prescription device;

(3) contracts with a contract manufacturing organization for the physical manufacture of the drug or device;

(4) is not involved in the physical manufacture of the drug or device; and

(5) does not store or take physical possession of the drug or device.

~~(aaaa)~~ "Virtual wholesale distributor" means a wholesale distributor that sells, brokers or transfers a drug or device but never physically possesses the product.

~~(yyy)~~(bbbb) "Wholesale distributor" means any person engaged in wholesale

distribution or reverse distribution of ~~prescription~~ drugs or devices, other than a manufacturer, co-licensed partner, or third-party logistics provider ~~or repackager~~.

~~(zzz)(cccc)~~ "Wholesale distribution" means the distribution or receipt of prescription drugs or devices to or by persons other than consumers or patients, in which a change of ownership occurs. "Wholesale distribution" does not include:

- (1) The dispensing of a ~~prescription drug or device~~ pursuant to a prescription;
- (2) the distribution of a ~~prescription drug or device~~ or an offer to distribute a prescription drug or device for emergency medical reasons, including a public health emergency declaration pursuant to section 319 of the public health service act, except that, for purposes of this paragraph, a drug or device shortage not caused by a public health emergency shall not constitute an emergency medical reason;
- (3) intracompany distribution ~~of any drug between members of an affiliate or within a manufacturer~~;
- (4) the distribution of a ~~prescription drug or device~~, or an offer to distribute a prescription drug or device, among hospitals or other health care entities under common control;
- (5) the distribution of a ~~prescription drug or device~~, or the offer to distribute a prescription drug or device, by a charitable organization described in ~~503~~ section 501(c)(3) of the internal revenue code of ~~1954~~ 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;
- (6) ~~the purchase or other acquisition by a dispenser, hospital or other health care entity for use by such dispenser, hospital or other health care entity;~~
- (7) ~~the distribution of a drug by the manufacturer of such drug;~~
- (8) ~~the receipt or transfer of a drug by an authorized third-party logistics provider, provided that such third-party logistics provider does not take ownership of the drug;~~
- (9) ~~the transport of a drug by a common carrier, provided that the common carrier does not take ownership of the drug;~~
- (10) ~~the distribution of a drug or an offer to distribute a drug by an authorized repackager that has taken ownership or possession of the drug and repacks it in accordance with section 582(e) of the federal food, drug and cosmetic act;~~
- (11) ~~saleable drug returns when conducted by a dispenser;~~
- (12) ~~the distribution of minimal quantities of drugs by licensed retail pharmacies to licensed practitioners for office use;~~
- (13) ~~the distribution of a collection of finished medical devices, including a product or biological product in accordance with 21 U.S.C. § 353(e)(4)(M);~~
- (14) ~~the distribution of an intravenous drug that, by its formulation, is intended for the replenishment of fluids and electrolytes, including sodium, chloride and potassium, or calories, including dextrose and amino acids;~~
- (15) the distribution of an intravenous drug used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions; or
- (16) ~~the distribution of a drug that is intended for irrigation, or sterile water, whether intended for such purposes or for injection;~~
- (17) ~~the distribution of medical gas;~~
- (18) ~~facilitating the distribution of a product by providing solely administrative services, including processing of orders and payments;~~
- (19) ~~the transfer of a product by a hospital or other health care entity, or by a wholesale distributor or manufacturer operating under the direction of a hospital or~~

other health care entity, to a repackager described in section 581(16)(B) and registered under section 510 of the food, drug and cosmetic act for the purpose of repackaging the drug for use by that hospital or other health care entity, or other health care entities under common control, if ownership of the drug remains with the hospital or other health care entity at all times; or

~~(20)(7)~~ the sale or transfer from a retail pharmacy of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a ~~third party returns processor~~ reverse distributor registered in accordance with the board's rules and regulations.

Sec. 7. K.S.A. 65-1627 is hereby amended to read as follows: 65-1627. (a) The board may deny an application or renewal, limit, condition, revoke, suspend, or place in a probationary status ~~or deny an application or renewal of any~~ the license of any pharmacist upon a finding that:

(1) The licensee has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact;

(2) the licensee has been convicted of a misdemeanor involving moral turpitude or gross immorality or any felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;

(3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;

(4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(5) the licensee has violated a provision of the federal or state food, drug and cosmetic act, ~~the federal or state~~ uniform controlled substances act ~~of the state of Kansas~~, or any rule and regulation adopted under any such act;

(6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;

(7) the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;

(9) the licensee has failed to comply with the continuing education requirements of the board for license renewal;

(10) the licensee as a ~~pharmacist in charge~~ "pharmacist-in-charge" or consultant pharmacist under the provisions of K.S.A. 65-1648(c) or (d), and amendments thereto, has failed to comply with the requirements of K.S.A. 65-1648(c) or (d), and amendments thereto;

(11) the licensee has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement;

(12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

(13) the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order;~~or~~

(14) the licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019 Supp. 21-5407, and amendments thereto;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto;~~or~~

(C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto;

(15) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board;

(16) the licensee has violated or failed to comply with any lawful order or directive of the board;~~or~~

(17) the licensee has violated any of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board pursuant to the provisions of the prescription monitoring program act;~~or~~

(18) the licensee has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas, the federal or state uniform controlled substances act or rules and regulations adopted by the board.

(b) In determining whether or not the licensee has violated subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such violation exists, the investigative information shall be presented to the board as a whole. Information submitted to the board as a whole and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of pharmacy with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice pharmacy and who shall accept the privilege to practice pharmacy in this state by so practicing or by the making and filing of a renewal application to practice pharmacy in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

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

(d) The board may suspend, revoke, place in a probationary status or ~~deny~~ an application or renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was or may be issued are not being conducted according to law or the rules and regulations of the board. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(e) The board may deny an application or renewal, limit, condition, revoke, suspend, or place in a probationary status ~~or deny a renewal of the registration of a~~ any pharmacy upon a finding that:

(1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith;

(2) the owner, pharmacy or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act ~~or uniform controlled substances act~~ of the state of Kansas, the federal or state uniform controlled substances act or the federal or state food, drug and cosmetic act;

(3) the owner, pharmacy or any pharmacist employed by such pharmacy has fraudulently claimed money for pharmaceutical services; ~~or~~

(4) the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act;

(5) the registrant has obtained, renewed or attempted to obtain or renew a registration by false or fraudulent means, including misrepresentation of a material fact or falsification of any application;

(6) the registrant has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of the pharmacy act of the state of Kansas, federal or state uniform controlled substances act or the federal or state food, drug and cosmetic act;

(7) the registrant has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas, the federal or state uniform controlled substances act or rules and regulations adopted by the board;

(8) such pharmacy has been operated in such manner that violations of the

provisions of the federal or state food, drug and cosmetic act, the federal or state uniform controlled substances act, or any rule and regulation adopted under any such act have occurred in connection therewith;

(9) such pharmacy has been operated in such manner that the violations of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board have occurred in connection therewith;

(10) the registrant has failed to furnish the board, its investigators or its representatives any information legally requested by the board; or

(11) the registrant has violated or failed to comply with any lawful order or directive of the board.

(f) A registration to manufacture or repackage drugs or devices, to operate as a wholesale distributor, ~~to sell durable medical equipment or to operate as a third-party logistics provider, outsourcing facility, institutional drug room or automated dispensing system, or to sell durable medical equipment~~, or a registration for the place of business where any such operation is conducted, may be limited, conditioned, suspended, revoked, or placed in a probationary status or the application for or renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent:

(1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas obtained, renewed or attempted to obtain or renew a registration by false or fraudulent means, including misrepresentation of a material fact or falsification of any application;

(2) has been convicted of a felony under any federal or state law relating to the manufacture, compounding, dispensing or distribution of drugs or devices;

(3) has had any federal registration for the manufacture, compounding, dispensing or distribution of drugs or devices suspended, limited, denied, disciplined, censured or revoked;

(4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629, and amendments thereto the pharmacy act of the state of Kansas, the federal or state uniform controlled substances act or the federal or state food, drug and cosmetic act;

(5) has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations; or, the federal or state uniform controlled substances act or rules and regulations adopted by the board;

(6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas, has violated the uniform controlled substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act, has violated the federal uniform controlled substances act, has violated the federal or state food, drug and cosmetic act or any rules and regulations adopted under any such act, or has violated a provision of the federal drug supply chain security act or any rule or regulation adopted under such act. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act;

(7) the registrant has had a registration revoked, suspended or limited, has been

censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act:

(8) has failed to furnish the board, its investigators or its representatives any information legally requested by the board; or

(9) the registrant has violated or failed to comply with any lawful order or directive of the board.

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

Sec. 8. K.S.A. 65-1631 is hereby amended to read as follows: 65-1631. (a) It shall be unlawful for any ~~person individual~~ to practice as a pharmacist in this state unless such ~~person individual~~ is licensed by the board as a pharmacist. Except as otherwise provided in subsection (d), every applicant for licensure as a pharmacist shall be at least 18 years of age, shall be a graduate of a school or college of pharmacy or department of a university recognized and approved by the board, shall file proof satisfactory to the board, substantiated by proper affidavits, of a minimum of one year of pharmaceutical experience, acceptable to the board, under the supervision of a preceptor and shall pass an examination approved by the board. Pharmaceutical experience as required in this section shall be under the supervision of a preceptor and shall be predominantly related to the dispensing of prescription medication, compounding prescriptions, preparing pharmaceutical preparations and keeping records and making reports required under state and federal statutes. A school or college of pharmacy or department of a university recognized and approved by the board under this subsection~~(a)~~ shall have a standard of education not below that of the university of Kansas school of pharmacy. The board shall adopt rules and regulations establishing the criteria~~which that~~ a school or college of pharmacy or department of a university shall satisfy in meeting the standard of education established under this subsection~~(a)~~.

(b) All applications for licensure by examination shall be made on a form to be prescribed and furnished by the board. Each application for a new license by examination shall be accompanied by a license fee fixed by the board as provided in K.S.A. 65-1645, and amendments thereto.

(c) The board is authorized to adopt rules and regulations relating to the ~~grades which score that~~ an applicant must receive in order to pass the ~~examination examinations~~ required for licensure. The board shall only accept a passing score on an examination required for licensure from an applicant's first five attempts taking such examination.

(d) Notwithstanding the preceding provisions of this section, the board may in its discretion license as a pharmacist, without examination, any ~~person individual~~ who is duly registered or licensed by examination in some other state, except that the board may require that such ~~person individual~~ take the ~~law examination multi-state jurisprudence examination~~ approved by the board. The board is authorized to adopt rules and regulations relating to the score that such individual shall be required to receive in order to pass the multi-state jurisprudence examination. The board shall only

accept a passing score on an examination required for licensure from an applicant's first five attempts taking such examination. Such ~~person~~ individual shall file proof satisfactory to the board of having the education and training required of applicants for licensure under the provisions of the pharmacy act of this state. ~~Persons~~ Individuals who are registered or licensed as pharmacists by examination in other states shall be required to satisfy only the requirements ~~which that~~ existed in this state at the time they become registered or licensed in such other states. The provisions of this subsection shall apply only if the state in which the ~~person~~ individual is registered or licensed grants, under like conditions, reciprocal registrations or licenses as pharmacists, without examination, to pharmacists duly licensed by examination in this state. Reciprocal licensure shall not be denied to any applicant otherwise qualified for reciprocal licensure under this section who has met the internship requirements of the state from which the applicant is reciprocating or who has at least one year of practice as a licensed pharmacist. A reciprocal licensure may be denied for any of the reasons set forth in ~~subsections (a)(1) through (a)(13)~~ of K.S.A. 65-1627 (a)(1) through (a)(13), and amendments thereto.

(e) In the event that an applicant for reciprocal licensure has not been subject to laws requiring continuing education as a condition for renewal of a registration or license, such applicant shall be required to satisfy the board through a competency examination that the applicant has the knowledge and ability to meet Kansas standards for licensure as a pharmacist.

(f) ~~No applicant who has taken the examination for licensure approved by the board and has failed to complete it successfully shall be considered for licensure by reciprocity within one year from the date such applicant sat for the examination.~~

~~(g)~~—All applicants for reciprocal licensure shall file their applications on a form to be prescribed and furnished by the board and such application shall be accompanied by a reciprocal licensure fee fixed by the board as provided in K.S.A. 65-1645₂ and amendments thereto. The reciprocal licensure fee established by this section immediately prior to the effective date of this act shall continue in effect until a different reciprocal licensure fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645₂ and amendments thereto.

~~(h)~~(g) The board shall take into consideration any felony conviction of such ~~person~~ individual, but such conviction shall not automatically operate as a bar to licensure.

~~(i)~~(h) All applicants for licensure who graduate from a school or college of pharmacy outside the United States or who graduate from a school or college of pharmacy not approved by the board shall submit information to the board, as specified by rules and regulations, and this information shall be accompanied by an evaluation fee fixed by the board as provided in K.S.A. 65-1645₂ and amendments thereto, ~~which evaluation fee that~~ shall be in addition to any other fee paid by the applicant under the pharmacy act of the state of Kansas. The evaluation fee fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until a different evaluation fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645₂ and amendments thereto. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about such schools or colleges of pharmacy. In entering such contracts the authority to approve schools or colleges of pharmacy shall remain solely with the board.

~~(j)~~(i) All applicants for licensure who graduate from a school or college of

pharmacy outside the United States or who are not citizens of the United States shall provide proof to the board that the applicant has a reasonable ability to communicate with the general public in English. The board may require such applicant to take the test of English as a foreign language and to attain the grade for passing such test as established by the board by rules and regulations.

(k)(j) Every registered pharmacist holding a valid registration as a pharmacist in effect on the day preceding the effective date of this act shall be deemed to be a licensed pharmacist under this act, and such ~~person~~ individual shall not be required to file an original application hereunder for a license.

Sec. 9. K.S.A. 65-1637 is hereby amended to read as follows: 65-1637. (a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. Except as provided in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be provided by law, a pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.

(b) The prescriber may authorize an agent to transmit to the pharmacy a prescription order orally, by facsimile transmission or by electronic transmission, provided that the first and last names of the transmitting agent are included in the order.

(c) (1) A new written or electronically prepared and transmitted prescription order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the first and last names of the transmitting agent shall be included in the order.

(2) If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

(3) An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription that is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

(4) The board is hereby authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose.

(d) An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent, and the first and last names of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form or directions for use, the prescriber shall sign the order as provided by subsection (c)(1).

(e) Regardless of the means of transmission to a pharmacy, ~~only~~ a pharmacist or a pharmacist intern shall be authorized to receive a new prescription order or a refill or renewal order from a prescriber or transmitting agent. ~~A pharmacist, a pharmacist intern~~

~~or a~~ registered pharmacy technician may receive a refill ~~or, renewal or order for~~ continuation of therapy that contains no changes from the original prescription from a prescriber or transmitting agent if such registered pharmacy technician's supervising pharmacist has authorized that function.

(f) A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription order.

A prescription for a schedule III, IV or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued.

(g) All prescriptions shall be filled or refilled in strict conformity with any directions of the prescriber, except that:

(1) A pharmacist who receives a prescription order for a brand name drug product, ~~excluding a biological product,~~ may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

~~(A) The prescriber, in the case of a prescription electronically signed by the prescriber, includes the statement~~ indicates "dispense as written" on the prescription or when communicating a prescription by oral order;

~~(B) the prescriber, in the case of a written prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;~~

~~(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated~~ the FDA has determined that a biological product is not an interchangeable biological product for the prescribed biological product; or

~~(D)(C) the federal food and drug administration~~ FDA has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication;

(2) a pharmacist may provide up to a three-month supply of a prescription drug that is not a controlled substance or psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but included sufficient numbers of refills for a three-month supply; or

~~(3) a pharmacist who receives a prescription order for a biological product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:~~

~~(A) The prescriber, in the case of a prescription signed by a prescriber and written on a blank form containing two signature lines, signs the signature line following the statement "dispense as written";~~

~~(B) the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;~~

~~(C) the prescriber, in the case of a prescription other than the one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or~~

~~(D) the biological product is not an interchangeable biological product for the prescribed biological product~~ except for a prescription for a controlled substance, a pharmacist may use professional judgment to make the following adaptations to a prescription order if a patient consents, the prescriber has not indicated "dispense as written" on the prescription, the pharmacist documents the adaptation on the patient's

prescription record and the pharmacist notifies the prescriber:

(A) Change the prescribed quantity if:

(i) The prescribed quantity or package size is not commercially available;
(ii) the change in quantity is related to a change in dosage form; or
(iii) the change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program;

(B) change the prescribed dosage form, strength or directions for use if it is in the best interest of the patient and the change achieves the intent of the prescriber; or

(C) complete missing information on the prescription order if there is evidence to support the change.

(h) A pharmacist who selects an interchangeable biological product shall inform the patient or the patient's representative that an interchangeable biological product has been substituted for the prescribed biological product.

(i) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled, except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(j) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the prescriber, shall bear the full name of the ~~person~~ individual so telephoning. Nothing in this section shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(k) (1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order that is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug, except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act, without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a ~~seven-day~~ 30-day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this paragraph shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this paragraph. A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this paragraph unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(l) If any prescription order contains a provision that the prescription may be

refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(m) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

(n) Except as provided in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be provided by law, nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if, in the pharmacist's professional judgment and discretion, such pharmacist is of the opinion that it should not be filled or refilled.

(o) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed by making an entry that is electronically accessible to the prescriber through:

- (1) An ~~inter-operable~~ interoperable electronic medical records system;
- (2) an electronic prescribing technology;
- (3) a pharmacy benefits management system; or
- (4) a pharmacy record.

(p) Entry into an electronic records system as described in subsection (o) shall be presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission or other prevailing means, provided that communication shall not be required where:

- (1) There is no FDA-approved interchangeable biological product for the product prescribed; or
- (2) a refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(q) A pharmacist shall maintain a record of any biological product dispensed for at least five years.

(r) The board shall maintain a link on its website to the current lists of all biological products that the FDA has determined to be interchangeable biological products.

Sec. 10. K.S.A. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the ~~pharmacist in charge~~ pharmacist-in-charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and (3) that the pharmacy will be under the supervision of a pharmacist, a

registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to violate the federal drug supply chain security act, 21 U.S.C. § 351 et seq.

(c) For any person to distribute at wholesale any drugs or devices without first obtaining a registration as a wholesale distributor from the board.

(d) For any person to operate as a third-party logistics provider within this state without having first obtained a registration from the board.

(e) For any person to in any manner distribute or dispense samples of any drugs or devices without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection, for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs ~~which that~~ are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in K.S.A. 65-1626~~(hh)~~(zz), and amendments thereto, for the designation of a pharmacy or drugstore.

~~(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board~~ manufacture within this state any drugs or devices except under the personal and immediate supervision of a pharmacist or such other individual as may be approved by the board after an investigation and a determination by the board that such individual is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety, and no individual shall manufacture any drugs or devices without first obtaining a registration to do so from the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a, and amendments thereto, and any rules and regulations adopted pursuant thereto.

(i) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662, and amendments thereto, and any rules and regulations adopted pursuant thereto.

(j) For any person to sell or distribute in a pharmacy a controlled substance designated in K.S.A. 65-4113~~(e)(d)~~ or ~~(f)(c)~~, and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, or by a registered pharmacy technician or a pharmacy pharmacist intern or clerk supervised by a licensed pharmacist;

(B) ~~any person individual~~ purchasing, receiving or otherwise acquiring any such controlled substance produces a valid photo identification showing the date of birth of the ~~person individual~~ and signs a log and enters in the log, or allows the seller to enter in the log, ~~such person's individual's~~ address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to K.S.A. 65-16,102, and amendments thereto. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

(C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

(D) the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

(k) For any pharmacy to allow customers to have direct access to any controlled substance designated in K.S.A. 65-4113~~(e)(d)~~ or ~~(f)(c)~~, and amendments thereto. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

(l) A seller who in good faith releases information in a log pursuant to subsection (j) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(m) For any person to sell or lease or offer for sale or lease durable medical equipment or to supply medical grade oxygen to an end user without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:

(1) Sales not made in the regular course of the person's business; or

(2) sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, ~~as amended.~~

(n) For any person to operate as an outsourcing facility within this state, or operate as an outsourcing facility outside of Kansas and ship, mail or deliver drugs into this state, without having first obtained a registration from the board.

(o) For any person to operate an automated dispensing system within this state without having first obtained a registration from the board.

(p) For any person to distribute drugs or devices into Kansas as an out-of-state manufacturer of such drugs or devices without first obtaining a registration as a manufacturer from the board.

Sec. 11. K.S.A. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for registrations or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the board. Applications for registration shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655, ~~and amendments thereto, and K.S.A. 65-1655a and 65-1655b, and amendments thereto.~~ The application shall be accompanied by the fee prescribed by the board under the provisions of this section.

When such application and fees are received by the secretary on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. ~~However,~~ If, at the time of filing, a proceeding is pending before the board that may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which ~~where~~ where there is carried on any of the operations for which a registration or permit is required by K.S.A. 65-1643, and amendments thereto.

(b) An application for a registration or permit under K.S.A. 65-1643, and amendments thereto, submitted for a facility physically located outside of the state of Kansas shall be accompanied by an additional non-resident fee prescribed by the board by rules and regulations pursuant to this section. Such fee shall not exceed \$350 for a new registration and \$250 for a renewal.

(c) The nonrefundable fees required for the issuing of the licenses, registrations or permits under the pharmacy act of the state of Kansas shall be fixed by the board as herein provided in this section, subject to the following:

- (1) Pharmacy, new registration not more than \$150, renewal not more than \$125;
- (2) pharmacist, new license by examination not more than \$350;
- (3) pharmacist, reinstatement application fee not more than \$250;
- (4) pharmacist, biennial renewal fee not more than \$200;
- (5) pharmacist, evaluation fee not more than \$250;
- (6) pharmacist, reciprocal licensure fee not more than \$250;
- (7) pharmacist, penalty fee, not more than \$500;
- (8) manufacturer, new registration not more than \$500, renewal not more than \$400;
- (9) wholesale distributor, new registration not more than \$500, renewal not more than \$400, except that a wholesale distributor dealing exclusively in nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and re-registration not to exceed \$50;
- (10) special auction not more than \$50;
- (11) samples distribution not more than \$50, renewal not more than \$50;
- (12) institutional drug room, new registration not more than \$40, renewal not more than \$35;
- (13) retail dealer selling more than 12 different nonprescription drug products, new permit not more than \$12, renewal not more than \$12;
- (14) certification of grades for each applicant for examination and registration not more than \$25;
- (15) veterinary medical teaching hospital pharmacy, new registration not more than \$40, renewal not more than \$35;
- (16) durable medical equipment registration fee, not more than \$300, renewal not more than \$300;
- (17) third-party logistics provider, new registration not more than \$500, renewal not more than \$400, except that a third-party logistics provider exclusively providing nonprescription drugs, the manufacturing, distributing or dispensing of which does not

require registration under the uniform controlled substances act, shall be assessed a fee for registration and re-registration not to exceed \$50;

(18) outsourcing facility, new registration not more than \$500, renewal not more than \$400;

(19) repackager, new registration not more than \$500, renewal not more than \$400; or

(20) automated dispensing system registration fee, not more than \$40, renewal not more than \$35.

~~(e)~~(d) For the purpose of fixing fees, the board may establish classes of retail dealers' permits for retail dealers selling more than 12 different nonprescription drug products, and the board may fix a different fee for each such class of permit.

~~(d)~~(c) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall fix by rules and regulations the fees authorized for such year at the sum deemed necessary for such purposes. The fees fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

~~(e)~~(f) The board may deny renewal of any registration or permit required by K.S.A. 65-1643, and amendments thereto, on any ground that would authorize the board to suspend, revoke or place on probation a registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643, and amendments thereto. Registrations and permits issued under the provisions of K.S.A. 65-1643 and 65-1644, and amendments thereto, shall be conspicuously displayed in the place for which the registration or permit was granted. Such registrations or permits shall not be transferable. All such registrations and permits shall expire every year. The expiration date shall be established by rules and regulations adopted by the board. All registrations and permits shall be renewed annually. Notice of renewal of registrations and permits shall be sent by the board to each registrant or permittee at least 30 days prior to expiration of the registration or permit. If application for renewal is not made prior to expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee. Failure of any registrant or permittee to receive such notice of renewal shall not relieve the registrant or permittee from the penalty hereby imposed if the renewal is not made as prescribed.

~~(f)~~(g) In each case in which a license of a pharmacist is issued or renewed for a period of time less than two years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to this section.

~~(g)~~(h) The board may require that fees paid for any examination under the pharmacy act of the state of Kansas be paid directly to the examination service by the person taking the examination.

Sec. 12. K.S.A. 65-1656 is hereby amended to read as follows: 65-1656. (a) Nothing contained in the pharmacy act of the state of Kansas shall prohibit a pharmacist licensed in this state from filling or refilling a valid prescription for prescription drugs not listed in schedule II of the uniform controlled substances act, ~~which that~~ is on file in a pharmacy licensed or registered in any state and has been transferred from one pharmacy to another ~~by any means, including by way of electronic data processing~~

equipment; upon the following conditions and exceptions:

(1) Prior to dispensing pursuant to any such prescription, the dispensing pharmacist shall:

(A) ~~Advise the patient that the prescription file at such other pharmacy must be canceled before the dispensing pharmacist will be able to fill the prescription;~~

(B) ~~determine that the prescription is valid and on file at such other pharmacy and that such prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on such prescription;~~

(C) ~~notify the pharmacy where the prescription is on file that the prescription must be canceled;~~

(D) ~~reorder the prescription order, the name of the pharmacy at which the prescription was on file, the prescription number, the name of the drug and the original amount dispensed, the date of original dispensing and the number of remaining authorized refills~~ Ensure records and notifications are in compliance with rules and regulations adopted by the board; and

~~(E)~~(B) obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the professional judgment of the dispensing pharmacist, so requires. Any interference with the professional judgment of the dispensing pharmacist by any other licensed pharmacist, agents of the licensed pharmacist or employees shall be grounds for revocation or suspension of the registration issued to the pharmacy.

(2) Upon receipt of a request for the transfer of a prescription information set forth in subsection (a)(1)(D) record, if the requested pharmacist is satisfied in the professional judgment of the pharmacist that such request is valid and legal, the requested pharmacist pharmacy shall:

(A) Provide such information accurately and completely;

(B) ~~reorder on the prescription the name of the requesting pharmacy and pharmacist and the date of request~~ ensure records and notifications are made in compliance with rules and regulations adopted by the board; and

(C) ~~cancel the prescription on file. No further prescription transfer shall be given or medication dispensed pursuant to such original prescription~~ provide information in a timely manner to avoid interruption in the medication therapy of the patient.

(3) ~~In the event that, after the information set forth in subsection (a)(1)(D) has been provided, a prescription is not dispensed by the requesting pharmacist, then such pharmacist shall provide notice of this fact to the pharmacy from which such information was obtained, such notice shall then cancel the prescription in the same manner as set forth in subsection (a)(2)(C).~~

~~(4)~~—When filling or refilling a valid prescription on file in another state, the dispensing pharmacist shall be required to follow all the requirements of Kansas law ~~which that~~ apply to the dispensing of prescription drugs. If anything in Kansas law prevents the filling or refilling of the original prescription it shall be unlawful to dispense pursuant to this section.

~~(5)~~(4) In addition to any other requirement of this section, the transfer of original prescription information for a controlled substance listed in schedules III, IV and V for the purposes of refill dispensing shall be made in accordance with the requirements of section 1306.25 of chapter 21 of the code of federal regulations 21 C.F.R. § 1306.25.

(b) Two or more pharmacies may establish and use a common electronic file to maintain required dispensing information. Pharmacies using such a common electronic

file are not required to physically transfer prescriptions or information for dispensing purposes between or among pharmacies participating in the same common prescription file, except that any such common file must contain complete and adequate records of such prescription and refill dispensed as required by the pharmacy act of the state of Kansas.

(c) The board may ~~formulate~~ adopt such rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes of and to enforce the provisions of this section except that the board shall not impose greater requirements on either common electronic files or a hard copy record system.

~~(d) Drugs shall in no event be dispensed more frequently or in larger amounts than the prescriber ordered without direct prescriber authorization by way of a new prescription order.~~ Nothing in this section shall prevent a pharmacy from forwarding to another pharmacy an original, unfilled prescription for a noncontrolled substance or electronically forwarding an original, unfilled, electronic prescription for a controlled substance, at the request of the patient, in compliance with the provisions of the federal or state uniform controlled substances act.

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

Sec. 13. K.S.A. 65-1657 is hereby amended to read as follows: 65-1657. (a) No nonresident pharmacy shall ship, mail or deliver, in any manner, prescription drugs or devices to a patient, patient's agent or prescriber's office in this state unless registered under this section as a nonresident pharmacy. Applications for a nonresident pharmacy registration under this section shall be made on a form furnished by the board. A nonresident pharmacy registration shall be granted for a period of one year upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the registration fee established under K.S.A. 65-1645, and amendments thereto, for a pharmacy registration. A nonresident pharmacy registration shall be renewed annually on forms provided by the board, upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the renewal fee established under K.S.A. 65-1645, and amendments thereto, for the renewal of a pharmacy registration.

(b) As conditions for the granting of a registration and for the renewal of a registration for a nonresident pharmacy, the nonresident pharmacy shall comply with the following:

(1) Provide information to the board to indicate the person or persons applying for the registration, the location of the pharmacy from which the prescription drugs will be dispensed, the names and titles of all principal owners and corporate officers, if any, and the names of all pharmacists dispensing prescription drugs to residents of Kansas;

(2) be registered and in good standing in the state in which such pharmacy is located;

(3) maintain, in readily retrievable form, records of prescription drugs dispensed to Kansas patients;

(4) supply upon request, all information needed by the board to carry out the board's responsibilities under this section and rules and regulations adopted pursuant to this section;

(5) maintain pharmacy hours that permit the timely dispensing of drugs to Kansas

patients and provide reasonable access for the patients to consult with a licensed pharmacist about such patients' medications;

(6) provide toll-free telephone communication consultation between a Kansas patient and a pharmacist at the pharmacy who has access to the patient's records, and ensure that the telephone ~~number(s)~~ number will be placed upon the label affixed to each prescription drug container dispensed in Kansas; and

(7) provide to the board such other information as the board may reasonably request to administer the provisions of this section.

~~(c) When any nonresident pharmacy fails to supply requested information to the board or fails to respond to proper inquiry of the board, after receiving notice by certified mail, the board may assess a civil fine in accordance with the provisions in K.S.A. 65-1658, and amendments thereto.~~

~~(d)~~ Each nonresident pharmacy shall comply with the following unless compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located:

(1) All statutory and regulatory requirements of Kansas for controlled substances, including those that are different from federal law;

(2) labeling of all prescriptions dispensed, to include, but not be limited to, identification of the product and quantity dispensed;

(3) all the statutory and regulatory requirements of Kansas for dispensing prescriptions in accordance with the quantities indicated by the prescriber; and

(4) the Kansas law regarding the maintenance and use of the patient medication profile record system.

~~(e)(d)~~ In addition to ~~subsection (d)~~ the requirements of subsection (c), each nonresident pharmacy shall comply with all the statutory and regulatory requirements of Kansas regarding drug product selection laws whether or not such compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located, except that compliance ~~which that~~ constitutes only a minor conflict with specific laws or rules and regulations of the state in which the pharmacy is located would not be required under this subsection.

~~(f)(e)~~ Each nonresident pharmacy shall develop and provide the board with a policy and procedure manual that sets forth:

(1) Normal delivery protocols and times;

(2) the procedure to be followed if the patient's medication is not available at the nonresident pharmacy, or if delivery will be delayed beyond the normal delivery time;

~~(3) the procedure to be followed upon receipt of a prescription for an acute illness, which.~~ Such policy shall include a procedure for delivery of the medication to the patient from the nonresident pharmacy at the earliest possible time, or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible time; and

(4) the procedure to be followed when the nonresident pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mailed prescription drugs become available.

~~(g) Except in emergencies that constitute an immediate threat to the public health and require prompt action by the board, the board may file a complaint against any nonresident pharmacy that violates any provision of this section. This complaint shall~~

~~be filed with the regulatory or licensing agency of the state in which the nonresident pharmacy is located. If the regulatory or licensing agency of the state in which the nonresident pharmacy is located fails to resolve the violation complained of within a reasonable time, not less than 180 days from the date that the complaint is filed, disciplinary proceedings may be initiated by the board. The board also may initiate disciplinary actions against a nonresident pharmacy if the regulatory or licensing agency of the state in which the nonresident pharmacy is located lacks or fails to exercise jurisdiction.~~

(f) The board may limit, condition, revoke, suspend or place in a probationary status a registration or deny an application for issuance or renewal of any registration on any ground that would authorize the board to take action against the registration of a pharmacy under K.S.A. 65-1627, and amendments thereto.

~~(h)(g)~~ The board shall adopt rules and regulations that make exceptions to the requirement of registration by a nonresident pharmacy when the out-of-state pharmacy supplies lawful refills to a patient from a prescription that was originally filled and delivered to a patient within the state in which the nonresident pharmacy is located, or when the prescriptions being mailed into the state of Kansas by a nonresident pharmacy occurs only in isolated transactions. In determining whether the prescriptions being mailed into the state of Kansas by a nonresident pharmacy are isolated transactions, the board shall consider whether the pharmacy has promoted its services in this state and whether the pharmacy has a contract with any employer or organization to provide pharmacy services to employees or other beneficiaries in this state.

~~(h)(h)~~ It is unlawful for any nonresident pharmacy ~~which that~~ is not registered under this act to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy ~~which that~~ has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

~~(j)(i)~~ Upon request of the board, the attorney general may bring an action in a court of competent jurisdiction for injunctive relief to restrain a violation of the provisions of this section or any rules and regulations adopted by the board under authority of this section. The remedy provided under this subsection shall be in addition to any other remedy provided under this section or under the pharmacy act of the state of Kansas.

~~(k)(j)~~ The board may adopt rules and regulations as necessary and as are consistent with this section to carry out the provisions of this section.

~~(l)~~ ~~The executive secretary of the board shall remit all moneys received from fees under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the manner specified under K.S.A. 74-1609, and amendments thereto.~~

~~(m)(k)~~ A violation of this section is a severity level 10, nonperson felony.

~~(n)(l)~~ This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 14. K.S.A. 65-1658 is hereby amended to read as follows: 65-1658. The state board of pharmacy, in addition to any other penalty prescribed under the pharmacy act of the state of Kansas, may assess a civil fine, after notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against any licensee or registrant under ~~subsections (a), (c), (d) and (e) of K.S.A. 65-1627(a), (c), (d), (e) and~~

(f), 65-1643, 65-1657, 65-1663 and 65-1676, and amendments thereto, for violation of the pharmacy act of the state of Kansas or, rules and regulations of the state board of pharmacy adopted under the pharmacy act of the state of Kansas or for violation of the federal or state uniform controlled substances act or rules and regulations of the state board of pharmacy adopted under the federal or state uniform controlled substances act; or for violation of the federal or state food, drug and cosmetic act or any rules and regulations adopted under any such act in an amount not to exceed \$5,000 for each violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. ~~Of the amount so remitted, an amount equal to the board's actual costs related to the case in which the fine was assessed, as certified by the president of the board to the state treasurer, shall be credited to the state board of pharmacy fee fund, and the balance shall be credited to the state general fund.~~

Sec. 15. K.S.A. 2020 Supp. 65-6112 is hereby amended to read as follows: 65-6112. As used in this act article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto:

(a) "Administrator" means the executive director of the emergency medical services board.

(b) "Advanced emergency medical technician" means a person who holds an advanced emergency medical technician certificate issued pursuant to this act.

(c) "Advanced practice registered nurse" means an advanced practice registered nurse as defined in K.S.A. 65-1113, and amendments thereto.

(d) "Ambulance" means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured.

(e) "Ambulance service" means any organization operated for the purpose of transporting sick or injured persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency or medical care in transit.

(f) "Board" means the emergency medical services board established pursuant to K.S.A. 65-6102, and amendments thereto.

(g) "Emergency medical service" means the effective and coordinated delivery of such care as may be required by an emergency that includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced practice registered nurse, professional nurse, a licensed physician assistant or emergency medical service provider.

(h) "Emergency medical service provider" means an emergency medical responder, advanced emergency medical technician, emergency medical technician or paramedic certified by the emergency medical services board.

(i) "Emergency medical technician" means a person who holds an emergency medical technician certificate issued pursuant to this act.

(j) "Emergency medical responder" means a person who holds an emergency medical responder certificate issued pursuant to this act.

(k) "Hospital" means a hospital as defined by K.S.A. 65-425, and amendments thereto.

(l) "Instructor-coordinator" means a person who is certified under this act to teach or coordinate both initial certification and continuing education classes.

(m) "Medical director" means a physician.

(n) "Medical oversight" means to review, approve and implement medical protocols and to approve and monitor the activities, competency and education of emergency medical service providers.

~~(o) "Medical protocols" mean means~~ written guidelines that authorize emergency medical service providers to perform certain medical procedures prior to contacting a physician, physician assistant authorized by a physician, advanced practice registered nurse authorized by a physician or professional nurse authorized by a physician. ~~The medical protocols shall be approved by a county medical society or the medical staff of a hospital to which the ambulance service primarily transports patients, or if neither of the above are able or available to approve the medical protocols, then the medical protocols shall be submitted to the medical advisory council for approval.~~

~~(p)~~ (p) "Municipality" means any city, county, township, fire district or ambulance service district.

~~(q)~~ (q) "Nonemergency transportation" means the care and transport of a sick or injured person under a foreseen combination of circumstances calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the emergency medical service provider whether within or outside the vehicle as part of such transportation services.

~~(r)~~ (r) "Operator" means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

~~(s)~~ (s) "Paramedic" means a person who holds a paramedic certificate issued pursuant to this act.

~~(t)~~ (t) "Person" means an individual, a partnership, an association, a joint-stock company or a corporation.

~~(u)~~ (u) "Physician" means a person licensed by the state board of healing arts to practice medicine and surgery.

~~(v)~~ (v) "Physician assistant" means a physician assistant as defined in K.S.A. 65-28a02, and amendments thereto.

~~(w)~~ (w) "Professional nurse" means a licensed professional nurse as defined by K.S.A. 65-1113, and amendments thereto.

~~(x)~~ (x) "Sponsoring organization" means any professional association, accredited postsecondary educational institution, ambulance service that holds a permit to operate in this state, fire department, other officially organized public safety agency, hospital, corporation, governmental entity or emergency medical services regional council, as approved by the executive director, to offer initial courses of instruction or continuing education programs.

Sec. 16. K.S.A. 2020 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, physician assistant, advanced practice registered nurse or licensed professional nurse; who gives emergency instructions to an emergency medical service provider ~~as defined by K.S.A. 65-6112, and amendments thereto~~, during an emergency; shall be liable for any civil damages as a result of issuing the instructions, except such damages that may result from gross negligence in giving such instructions.

(b) No emergency medical service provider ~~as defined by K.S.A. 65-6112, and amendments thereto~~; who renders emergency care during an emergency pursuant to instructions given by a physician, ~~the supervising physician for a physician assistant~~, advanced practice registered nurse or licensed professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages that may

result from gross negligence or by willful or wanton acts or omissions on the part of such emergency medical service provider ~~as defined by K.S.A. 65-6112, and amendments thereto.~~

(c) No person certified as an instructor-coordinator shall be liable for any civil damages that may result from such instructor-coordinator's course of instruction, except such damages that may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator.

(d) No medical director who ~~reviews, approves and monitors the activities of emergency medical service providers~~ provides medical oversight shall be liable for any civil damages as a result of such ~~review, approval or monitoring~~ medical oversight, except such damages that may result from gross negligence in the provision of such review, approval or monitoring medical oversight.

Sec. 17. K.S.A. 2020 Supp. 65-6126 is hereby amended to read as follows: 65-6126. (a) Except as provided in subsection (b), each emergency medical service operator shall have designate a medical director appointed by the operator of the service to review and implement medical protocols, approve and monitor the activities, competency and education of the emergency medical service providers to provide medical oversight.

(b) The board may approve an alternative procedure for medical oversight by a physician if no medical director is available to be designated by the operator.";

Also on page 35, in line 11, by striking all after "K.S.A."; by striking all in line 12; in line 13, by striking all before the second "and" and inserting "65-636, 65-1627, 65-1631, 65-1637, 65-1643, 65-1645, 65-1645, 65-1656, 65-1657 and 65-1658"; in line 14, by striking all before "are" and inserting "65-1626, 65-6112, 65-6124 and 65-6126"; in line 16, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "to"; by striking all in lines 2 through 9; in line 10, by striking "discipline" and inserting "health professions; requiring medical oversight of emergency medical services operators by medical directors or physicians; prescribing powers, duties and functions of the state board of pharmacy; providing for confidentiality of investigations, inspections and audits; requirements for the exhibition of titles and prescription orders; establishing fees on out-of-state facilities; defining telepharmacy and requiring rules and regulations to be adopted for oversight and administration thereof"; also in line 10, by striking all after "K.S.A."; by striking all in lines 11 and 12 and inserting "65-636, 65-1627, 65-1631, 65-1637, 65-1643, 65-1645, 65-1656, 65-1657 and 65-1658 and"; in line 13, by striking "65-6306 and 65-6411" and inserting "65-1626, 65-6112, 65-6124 and 65-6126";

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

BRENDA LANDWEHR

JOHN EPLEE

BRETT PARKER

Conferees on part of House

RICHARD HILDERBRAND

BEVERLY GOSSAGE

PAT PETTEY

Conferees on part of Senate

Senator Hilderbrand moved the Senate adopt the Conference Committee Report on **Sub SB 238**.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Suellentrop, Sykes, Ware, Warren, Wilborn.

Nays: Steffen, Straub, Thompson, Tyson.

The Conference Committee Report was adopted.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Kerschen moved the Senate concur in House amendments to **SB 39**.

SB 39, AN ACT concerning agriculture; relating to the Kansas department of agriculture; the division of animal health; license, permit and registration renewal deadlines; calfhood vaccination tag fees; amending K.S.A. 47-1208 and K.S.A. 2020 Supp. 47-1001e, 47-1002, 47-1503, 47-1805, 47-1831 and 47-2101 and repealing the existing sections.

On roll call, the vote was: Yeas 35; Nays 5; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Suellentrop, Sykes, Ware, Warren, Wilborn.

Nays: Hilderbrand, Steffen, Straub, Thompson, Tyson.

The Senate concurred.

EXPLANATION OF VOTE

Mr. Vice President: While **SB 39** appears benign on the surface, my concern is for the incremental infringement on the ability of our mom and pop cattle producers to compete in a worldwide free market. If RFID tags are so necessary, then why do we not require the same regulations on beef that is imported as we do on US beef? Supporting RFID tags could potentially lead to mandates and the destruction of the good people of our state who raise Kansas Beef and help feed the entire world. I vote, No, out of concern to protect the freedom of our Kansas Beef Producers.—ALICIA STRAUB

CONSIDERATION OF APPOINTMENTS

In accordance with Senate Rule 55, the following appointments, submitted by the Governor to the Senate for confirmation were considered.

Senator Alley moved the following appointments be confirmed as recommended by the Governor.

State Banking Board:

Mary Berry, Term ends March 15, 2024

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll,

Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

The appointment was confirmed.

Kansas Human Rights Commission:

Alicia Sanchez, Term ends January 15, 2025

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

The appointment was confirmed.

Kansas Human Rights Commission:

Nathan Spriggs, Term ends January 15, 2025

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

The appointment was confirmed.

Kansas Public Employees Retirement Board of Trustees:

Kathleen VonAchen, term expires Term ends January 15, 2025

On roll call, the vote was: Yeas 19; Nays 19; Present and Passing 2; Absent or Not Voting 0.

Yeas: Billinger, Corson, Doll, Fagg, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Kerschen, Longbine, Olson, Pettey, Pittman, Pyle, Sykes, Ware, Wilborn.

Nays: Baumgardner, Bowers, Claeys, Dietrich, Erickson, Gossage, Hilderbrand, Kloos, Masterson, McGinn, O'Shea, Peck, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren.

Present and Passing: Alley, Petersen.

The appointment was not confirmed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Alley the following report was adopted:

SR 1611 be amended by the adoption of the committee amendments and the resolution be adopted.

Senator Olson moved **SCR 1611** be rereferred to the Committee on Federal and State Affairs.

Upon the showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 21; Nays 19; Present and Passing 0; Absent or Not Voting 0.

Yeas: Billinger, Bowers, Corson, Dietrich, Doll, Fagg, Faust-Goudeau, Francisco, Haley, Hawk, Hilderbrand, Holland, Holscher, McGinn, Olson, Pettey, Pittman, Pyle, Sykes, Tyson, Ware.

Nays: Alley, Baumgardner, Claeys, Erickson, Gossage, Kerschen, Kloos, Longbine, Masterson, O'Shea, Peck, Petersen, Ryckman, Steffen, Straub, Suellentrop, Thompson, Warren, Wilborn.

The motion carried.

EXPLANATION OF VOTE

Mr. President: The Kansas Constitution lists a two-thirds majority for this type of resolution. At this time, I have not heard a convincing argument to lower that number. By returning **SCR 1611** to committee, it will allow for a critical review of this important issue.—CARYN TYSON

REFERENCE OF BILLS

The President referred **SB 314** to the Calendar under the heading of General Orders.

CHANGE OF CONFERENCE

President Masterson appointed Senators Baumgardner, Erickson and Sykes to replace Senators Longbine, Peck and Holscher as members of the conference committee on **HB 2134**.

On motion of Senator Alley, the Senate adjourned until 10:00 a.m., Thursday, May 6, 2021.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

