

# Journal of the Senate

## SIXTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, May 7, 2015, 10:00 a.m.

The Senate was called to order by President Susan Wagle.  
The roll was called with 38 senators present.  
Senators McGinn and Ostmeyer were excused.  
Invocation by Reverend Cecil T. Washington:

Heavenly Father,

On this National Day of Prayer, we know that everyone in the nation is not praying. Everyone in Kansas is not praying. Father, I would dare say that everyone under this dome is not really praying. Although it's a national call, everyone is not heeding it. But since we're in this thing together, help those of us who do pray to intercede in love for those of us who don't. You said in James 5:16 that the effective prayer of a righteous person, one who truly prays, has the power to accomplish much. So Lord, we stand here today, in prayer for a world of people, including many loved ones, that don't seem to be praying at all. We pray that Your saving grace will bring life to those who are spiritually dead, revive those who are lethargic and set on fire those who are frozen. Would You bring this nation...even this state to a turning point. Convict us of faulty ways. Convince us of true ways and Convert us to Your ways. Let the fragrance of our prayers be precious and pleasing to You, that the power of our prayers be unmistakable. In the name of Jesus, Amen and Amen

The Pledge of Allegiance was led by President Susan Wagle.

### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

#### **SENATE RESOLUTION No. 1741—**

A RESOLUTION congratulating the Johnson County Community College women's basketball team on winning the 2015 NJCAA Division II National Championship.

WHEREAS, The Johnson County Community College women's basketball team won the 2015 NJCAA Division II National Championship against Parkland College with a 66-64 victory. The win marks the first time since 2000 and the second time in the school's history that Johnson County Community College has won the NJCAA Division II National Championship; and

WHEREAS, The Johnson County Community College women's basketball team ended the season with 34 wins and only two losses, setting a new school record for

wins. This was the sixth straight 30-win season for the team; and

WHEREAS, Ben Conrad is the head basketball coach for the Johnson County Community College women's basketball team. Conrad recorded his 300<sup>th</sup> career win when his team won the 2015 national title. Conrad surrounded the team with a stellar coaching staff that included Phillipe McCree, Doug Schakel, Dave Strong and Carlos Moore; and

WHEREAS, The members of the 2014-2015 Johnson County Community College women's basketball team were: Brook Vaughan, Chastity Franklin, Alexis Brown, Braile Fields, Erica Nelson, Kelsey Barrett, Kierra Isaiah, Katie Jones, Kayonna Lee, Janae Barnes, Emily Work, Shelby Dahl, Hunter Thomas and Nieka Wheeler. Nieka Wheeler, a sophomore from Independence, Missouri, was awarded the title NJCAA Women's Division II National Tournament MVP and led the team's victory against Parkland College with 16 points: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate the Johnson County Community College women's basketball team on winning the 2015 NJCAA Division II National Championship. We applaud the team's exceptional players, coaches and staff and wish them continued success and achievement in the future; and

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

On emergency motion of Senator Baumgardner **SR 1741** was adopted unanimously.

Senators Lynn, Melcher and Olson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1742—

A RESOLUTION congratulating and commending the  
Olathe Public Schools ProStart Culinary Team for winning  
first place at the 2015 National ProStart Invitational.

WHEREAS, On April 18-20, 2015, the Olathe Public Schools ProStart Culinary Team, representing the entire State of Kansas, took first place among 48 teams from throughout the United States, as well as Japan and Germany, winning its third national championship at the 14<sup>th</sup> Annual ProStart Invitational in Anaheim, California; and

WHEREAS, ProStart is a nationwide program that unites the classroom and hospitality industry to develop the best and brightest talent into tomorrow's restaurant and hospitality industry leaders. The ProStart program is a two-year high school course currently offered at 30 Kansas schools. Students who pass two exams, demonstrate a mastery of foundational skills, and complete 400 hours of mentored work experience earn an industry-recognized certificate which can lead to scholarships and credits at more than 60 colleges and universities across the country; and

WHEREAS, The National ProStart Invitational is the country's premier high school competition focused on culinary arts and restaurant management. Teams must win their respective state competitions in order to move on to the national finals, where, after having invested more than 700 hours of practice, they are required to prepare a three-course meal in 60 minutes, using two butane burners and without access to running water or electricity. Teams are then judged based on creative abilities, skill, teamwork,

safety, sanitation, and taste of the food; and

WHEREAS, The team's winning menu included: An appetizer consisting of spice-encrusted George's Bank scallops, avocado mosaic, citrus mango relish, tomato gremolata, mango reduction, and crisp microgreen salad; an entrée consisting of pignoli-encrusted pork tenderloin, rich veal reduction, vegetable bouquetiere, vanilla infused sunchoke puree, truffled spinach salad, and buttered potato croquette; and a dessert consisting of coconut chocolate Bavarian, spherical white chocolate orange Bavarian, cashew crumb, raspberry coulis, and sugar-dipped cashew and vanilla tuile; and

WHEREAS, The team consisted of: Melinda Hrdy, team lead, senior, Olathe South High School; Michael Miller, senior, Olathe South High School; Ashleigh Hagen, junior, Olathe North High School; Haneen Ibrahim, senior, Blue Valley North High School; and Rachel Cormeny, senior, Olathe East High School; and

WHEREAS, For winning first place, each team member received a \$5,000 scholarship from the National Restaurant Association Educational Foundation and Coca-Cola, as well as a \$1,000 scholarship from the Burger King McLamore Foundation that can be used to further their education in the restaurant and food service industry. The team members plan to continue their education after high school. Melinda Hrdy and Haneen Ibrahim plan to attend the New England Culinary Institute; Michael Miller plans to attend Le Cordon Bleu College of Culinary Arts in Seattle; Rachel Cormeny plans to attend Johnson and Wales University in Denver; and Ashleigh Hagen plans to attend the Culinary Institute of America; and

WHEREAS, The first place Olathe Public Schools ProStart Culinary Team was led by Chef Mike Chrostowski, who is in his 10<sup>th</sup> year of teaching. Chef Mike encourages students to develop a passion for the industry, helps them find success in the industry, pushes them to achieve greatness, and helps them achieve goals that were once thought unattainable. Under Chef Mike's mentoring and assistance from Chef Philip Shaw, the Olathe Culinary Program has qualified for the national competition 10 years in a row and is the only team to stand on the podium as a top four finisher the last seven consecutive years. Chef Mike's passion and expertise have helped to make the culinary arts program at Olathe North High School one of the best examples of industry standards being integrated into a high school career technical education program: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Olathe Public Schools ProStart Culinary Team for taking first place at the 14<sup>th</sup> Annual National ProStart Invitational in Anaheim, California, thereby serving as an example and a model to high schools across the United States for its dedication and excellence; and

*Be it further resolved:* That the Secretary of the Senate shall send six enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1742** was adopted unanimously.

The Senators honored the guests with a standing ovation.

Senators Wolf and Smith introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1743—

A RESOLUTION congratulating the Shawnee Mission East High School men's swimming and diving teams on winning the

## Kansas State Swimming and Diving Championship.

WHEREAS, The Shawnee Mission East High School men's swimming and diving teams won the 2015 Kansas State Swimming and Diving Championship by three points over Blue Valley North High School; and

WHEREAS, The meet was held at the Hummer Natatorium on February 20 and 21, 2015; and

WHEREAS, The Shawnee Mission East High School team was represented by the following 16 swimmers and three divers: Adam Bublitz, Tyler Cunningham, John Foster, Aiden Hense, Bennett Hense, Christian Hense, Aiden Holbrook, Patrick Hornung, Mitch Kerr, Max Keeter, Carter Kirkland, Hayden Linscott, Ian Longan, Joe McGuire, Tom Peters, Evan Root, Benn Schmatz, Henry Sniezek and Lawson Smith; and

WHEREAS, Senior Benn Schmatz and freshman Aiden Holbrook were named to the Kansas State 1<sup>st</sup> Team. Senior Patrick Hornung and sophomore Hayden Linscott were named to the Kansas State 2<sup>nd</sup> Team. Benn Schmatz was the Kansas Champion in the 100-yard breaststroke and Aiden Holbrook was the Kansas Champion in the 500-yard freestyle; and

WHEREAS, Shawnee Mission East High School also won the Sunflower League Conference title for the 12<sup>th</sup> consecutive year; and

WHEREAS, The team was coached by Wiley Wright, Colby Dischinger and Betsy Anderson. Coach Wright celebrated his 30<sup>th</sup> year of coaching at Shawnee Mission East High School this year. Under Coach Wright's leadership, the school has captured 19 Sunflower League titles and eight Kansas State titles: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate the Shawnee Mission East High School men's swimming and diving teams on winning the 2015 Kansas State Swimming and Diving Championship. The work ethic these young men demonstrate throughout the season serves as a shining example for all young Kansans; and

*Be it further resolved:* That the Secretary of the Senate shall send two enrolled copies of this resolution to Senator Wolf.

On emergency motion of Senator Wolf **SR 1743** was adopted unanimously.

The Senators honored the guests with a standing ovation.

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

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

**MESSAGE FROM THE HOUSE**

The House adopts the Conference Committee report on **S Sub HB 2042**.

The House adopts the Conference Committee report on **S Sub HB 2043**.

The House nonconcurrs in Senate amendments to **HB 2005**, requests a conference and has appointed Representatives Ryckman, Barker and Henry as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2233**, requests a conference and has appointed Representatives Hedke, Corbet and Kuether as conferees on the part of

the House.

The House nonconcurrs in Senate amendments to **HB 2268**, requests a conference and has appointed Representatives Brunk, Couture-Lovelady and Tietze as conferees on the part of the House.

The House announced the appointment of Rep. Rubin to replace Rep. Dove as a conferee on **S Sub Sub HB 2170**.

The House adopts the Conference Committee report on **HB 2155**.

The House not adopts the Conference Committee report on **HB 2165**.

### ORIGINAL MOTION

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **HB 2233**.

The Vice President appointed Senators Olson, Petersen and Francisco as conferees on the part of the Senate.

On motion of Senator Masterson, the Senate acceded to the request of the House for a conference on **HB 2268**.

The Vice President appointed Senators Masterson, Denning and Kelly as conferees on the part of the Senate.

On motion of Senator Masterson, the Senate acceded to the request of the House for a conference on **HB 2005**.

The Vice President appointed Senators Masterson, King and Kelly as conferees on the part of the Senate.

### ORIGINAL MOTION

Senator Bruce moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 52**, **SB 189**; **HB 2256**.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 52** 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, in line 26, before "allow" by inserting "within the rattlesnake creek subbasin located in hydrologic unit code 11030009,";

On page 11, following line 26, by inserting the following:

"Sec. 6. K.S.A. 2014 Supp. 82a-1604 is hereby amended to read as follows: 82a-1604. (a) The state may participate with a sponsor in the development, construction or renovation of a class I multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a

water appropriation right sufficient to insure a dependable yield from the public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class I project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsections (a) and (c), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class I project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.~~

Sec. 7. K.S.A. 2014 Supp. 82a-1605 is hereby amended to read as follows: 82a-1605. (a) The state may participate with a sponsor in the development, construction or renovation of a class II multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) In a class II project, the state may assume initial financial obligations for public water supply storage in watersheds by entering into long-term contracts with the federal government. In order to provide security to the federal government, the state may grant assignments of water rights, either appropriation rights or water reservation rights;

assignments of rights under existing or prospective water purchase contracts; assignments, mortgages or other transfers of interests in real property held by the state and devoted to the specific small lake project for which security is sought; or may provide other security that is permissible under state law and acceptable by the federal government. Instead of contracting to repay costs under long-term contracts, the state may pay all of the required costs of the public water supply storage in a lump sum.

(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (d), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(d) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(e) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class II project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.~~

Sec. 8. K.S.A. 2014 Supp. 82a-1606 is hereby amended to read as follows: 82a-1606. (a) The state may participate with a sponsor in the development, construction or renovation of a class III multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water supply storage portion of such project unless the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a sponsor is not available to finance 100% of the costs associated with the public water supply storage, the state may participate in the future use public water supply storage costs of the project. If the state participates in the public water supply storage costs, the Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (c), the state may pay up to 100% of the engineering and construction costs of flood control storage and public water supply storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class III project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.~~;

Also on page 11, in line 28, by striking "and" and inserting a comma; also in line 28, after "82a-1041" by inserting ", 82a-1604, 82a-1605 and 82a-1606";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "public water supply storage."; in line 4, by striking the first "and" and inserting a comma; also in line 4, after "82a-1041" by inserting ", 82a-1604, 82a-1605 and 82a-1606";

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

SHARON SCHWARTZ  
SUE BOLDRA  
PONKA-WE VICTORS

*Conferees on part of House*

LARRY POWELL  
DAN KERSCHEN  
MARCI FRANCISCO

*Conferees on part of Senate*

Senator Powell moved the Senate adopt the Conference Committee Report on **SB 52**.

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

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

Absent or Not Voting: McGinn, Ostmeyer.

The Conference Committee Report was adopted.



**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 189** 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 10, following line 20, by inserting:

"(i) The dean of the college shall annually submit a report to the senate committee on agriculture and the house committee on agriculture and natural resources. Such annual report shall include details on the veterinary training program for rural Kansas, the veterinary diagnostic laboratory, the national bio and agro defense facility and other programs of the college.";

Also on page 10, in line 26, by striking all after "euthanasia"; by striking all in line 27; in line 28, by striking all before the period and inserting ". The commissioner shall promulgate rules and regulations by December 31, 2015, regarding acceptable methods of euthanasia. Such acceptable methods may be more stringent than those established by the American veterinary medical association";

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

SHARON SCHWARTZ

SUE BOLDRA

PONKA-WE VICTORS

*Conferees on part of House*

GARRETT LOVE

DAN KERSCHEN

MARCI FRANCISCO

*Conferees on part of Senate*

Senator Love moved the Senate adopt the Conference Committee Report on **SB 189**.

On roll call, the vote was: Yeas 37; Nays 1; Present and Passing 0; Absent or Not Voting 2.

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

Nays: Pilcher-Cook.

Absent or Not Voting: McGinn, Ostmeyer.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2256** submits the following report:

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

On page 1, by striking all in lines 6 through 36;

On page 2, by striking all in lines 1 through 8 and inserting:

"New Section 1. (a) The attorney general may determine by a preponderance of the evidence after an investigation that a public agency has violated K.S.A. 45-215 et seq., and amendments thereto, and may, at any time prior to the filing of an action pursuant to K.S.A. 45-222, and amendments thereto, either enter into a consent order with the public agency or issue a finding of violation to the public agency.

(1) If the attorney general enters into a consent order with the public agency, the consent order:

(A) May contain admissions of fact and any or all of the following:

(i) Require completion of training approved by the attorney general concerning the requirements of K.S.A. 45-215 et seq., and amendments thereto;

(ii) Impose a civil penalty as provided for in K.S.A. 45-223, and amendments thereto, in

an amount not to exceed \$250 for each violation; and

(iii) set forth the public agency's agreement that it will comply with the requirements of the open records act, K.S.A. 45-215 et seq., and amendments thereto; and

(B) shall bear the signature of the head of the public agency, of any officer found to have violated the provisions of K.S.A. 45-215 et seq., and amendments thereto, and of any other person required by the attorney general. If the public agency is a governing body, all of the members of the governing body shall sign the consent order.

(2) If the attorney general issues a finding of violation to the public agency, the finding may contain findings of fact and conclusions of law and require the public agency to do any or all of the following:

(A) Cease and desist from further violation;

(B) comply with the provisions of K.S.A. 45-215 et seq., and amendments thereto;

(C) complete training approved by the attorney general concerning the requirements of K.S.A. 45-215 et seq., and amendments thereto; and

(D) pay a civil penalty as provided for in K.S.A. 45-223, and amendments thereto, in an amount not to exceed \$500 for each violation.

(b) The attorney general may require submission of proof that requirements of any consent order entered pursuant to subsection (a)(1) or any finding of violation issued pursuant to subsection (a)(2) have been satisfied.

(c) (1) The attorney general may apply to the district court to enforce a consent order pursuant to subsection (a)(1) or finding of violation pursuant to subsection (a)(2). Prior to applying to the district court, the attorney general shall make a demand to the public agency to comply with the consent order or finding of violation and afford reasonable opportunity for the public agency to cure the violation.

(2) An enforcement action under this section may be filed in the district court of the county where the consent order or finding of violation is issued or is effective. The district court of any county shall have jurisdiction to enforce any consent order or finding of violation.

(3) In any enforcement action under this section, the court on its own motion, or on the motion of either party, may view the records in controversy in camera before reaching a decision.

(4) If the district court finds the attorney general did not abuse the attorney

general's discretion in entering into the consent order or issuing the finding of violation, the district court shall enter an order that:

(A) Enjoins the public agency to comply with the consent order or finding of violation;

(B) imposes a civil penalty as provided for in K.S.A. 45-223, and amendments thereto. The penalty shall be set by the court in an amount not less than the amount ordered by the attorney general, nor more than \$500 for each violation;

(C) requires the public agency to pay the attorney general's court costs and costs incurred in investigating the violation; and

(D) provides for any other remedy authorized by K.S.A. 45-222(a), and amendments thereto, that the court deems appropriate.

(5) In any enforcement action under this section, if the court finds that any of the provisions of K.S.A. 45-215 et seq., and amendments thereto, were violated, such court:

(A) Except as provided in subsection (c)(5)(B), may require the public agency to pay the attorney general's reasonable attorney fees; and

(B) shall require the public agency to pay the attorney general's reasonable attorney fees, if the public agency's violation was not made in good faith and without a reasonable basis in fact or law.

(d) Any finding of violation issued by the attorney general pursuant to subsection (a)(2) shall be served upon the public agency:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(e) The attorney general shall maintain and make available for public inspection all consent orders entered pursuant to subsection (a)(1) and all findings of violation issued pursuant to subsection (a)(2).

(f) This section shall be a part of and supplemental to the open records act.

New Sec. 2. (a) In lieu of bringing an action as provided in K.S.A. 45-222, and amendments thereto, the attorney general or a county or district attorney may resolve the matter by accepting a consent judgment with respect to any act or practice declared to be a violation of this act. Before any consent judgment entered into pursuant to this section shall be effective, such judgment must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of the consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(b) A consent judgment may contain any remedy available to the district court, except it shall not include an award of reasonable expenses, investigation costs or attorney fees. A consent judgment may include a stipulation concerning the production of records requested pursuant to K.S.A. 45-215 et seq., and amendments thereto, subject to any permissible redactions as described in the consent judgment.

(c) This section shall be a part of and supplemental to the open records act.

New Sec. 3. (a) Any complaint submitted to the attorney general shall be on a form prescribed by the attorney general setting forth the facts that the complaining party believes show that K.S.A. 45-215 et seq., and amendments thereto, have been violated. The person submitting the complaint must attest to the facts under penalty of perjury

pursuant to K.S.A. 53-601, and amendments thereto.

(b) This section shall be a part of and supplemental to the open records act.

New Sec. 4. (a) The attorney general may determine by a preponderance of the evidence after an investigation that a public body or agency has violated K.S.A. 75-4317 et seq., and amendments thereto, and may, at any time prior to the filing of an action pursuant to K.S.A. 75-4320a, and amendments thereto, either enter into a consent order with the public body or agency or issue a finding of violation to the public body or agency.

(1) If the attorney general enters into a consent order with the public body or agency, the consent order:

(A) May contain admissions of fact and any or all of the following:

(i) Require completion of training approved by the attorney general concerning the requirements of K.S.A. 75-4317 et seq., and amendments thereto;

(ii) impose a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto, in an amount not to exceed \$250 for each violation; and

(iii) set forth the public body's or agency's agreement that it will comply with the requirements of the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto; and

(B) shall bear the signature of the head of the public body or agency, of any officer found to have violated the provisions of K.S.A. 75-4317 et seq., and amendments thereto, and of any other person required by the attorney general.

(2) If the attorney general issues a finding of violation to the public body or agency, the finding may contain findings of fact and conclusions of law and require the public body or agency to do any or all of the following:

(A) Cease and desist from further violation;

(B) comply with the provisions of K.S.A. 75-4317 et seq., and amendments thereto;

(C) complete training approved by the attorney general concerning the requirements of K.S.A. 75-4317 et seq., and amendments thereto; and

(D) pay a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto, in an amount not to exceed \$500 for each violation.

(b) The attorney general may require submission of proof that requirements of any consent order entered pursuant to subsection (a)(1) or any finding of violation issued pursuant to subsection (a)(2) have been satisfied.

(c) (1) The attorney general may apply to the district court to enforce a consent order pursuant to subsection (a)(1) or finding of violation pursuant to subsection (a)(2). Prior to applying to the district court, the attorney general shall make a demand to the public body or agency to comply with the consent order or finding of violation and afford reasonable opportunity for the public body or agency to cure the violation.

(2) An enforcement action under this section may be filed in the district court of the county where the consent order or finding of violation is issued or is effective. The district court of any county shall have jurisdiction to enforce any consent order or finding of violation.

(3) If the district court finds the attorney general did not abuse the attorney general's discretion in entering into the consent order or issuing the finding of violation, the district court shall enter an order that:

(A) Enjoins the public body or agency to comply with the consent order or finding of violation;

(B) imposes a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto. The penalty shall be set by the court in an amount not less than the amount ordered by the attorney general, nor more than \$500 for each violation;

(C) requires the public body or agency to pay the attorney general's court costs and costs incurred in investigating the violation; and

(D) provides for any other remedy authorized by K.S.A. 75-4320a(a), and amendments thereto, that the court deems appropriate.

(4) In any enforcement action under this section, if the court finds that any of the provisions of K.S.A. 75-4317 et seq., and amendments thereto, were violated, such court:

(A) Except as provided in subsection (c)(4)(B), may require the public body or agency to pay the attorney general's reasonable attorney fees; and

(B) shall require the public body or agency to pay the attorney general's reasonable attorney fees, if the public body's or agency's violation was not made in good faith and without a reasonable basis in fact or law.

(d) Any finding of violation issued by the attorney general pursuant to subsection (a)(2) shall be served upon the public body or agency:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(e) The attorney general shall maintain and make available for public inspection all consent orders entered pursuant to subsection (a)(1) and all findings of violation issued pursuant to subsection (a)(2).

(f) This section shall be a part of and supplemental to the open meetings act.

New Sec. 5. (a) In lieu of bringing an action as provided in K.S.A. 75-4320a, and amendments thereto, the attorney general or a county or district attorney may resolve the matter by accepting a consent judgment with respect to any act or practice declared to be a violation of this act. Before any consent judgment entered into pursuant to this section shall be effective, such judgment must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of the consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(b) A consent judgment may contain any remedy available to the district court, except it shall not include an award of reasonable expenses, investigation costs or attorney fees.

(c) This section shall be a part of and supplemental to the open meetings act.

New Sec. 6. (a) Any complaint submitted to the attorney general shall be on a form prescribed by the attorney general setting forth the facts that the complaining party believes show that K.S.A. 75-4317 et seq., and amendments thereto, have been violated. The person submitting the complaint must attest to the facts under penalty of perjury pursuant to K.S.A. 53-601, and amendments thereto.

(b) This section shall be a part of and supplemental to the open meetings act.

New Sec. 7. (a) There is hereby created in the state treasury the attorney general's open government fund. Moneys in the attorney general's open government fund shall be used by the attorney general to carry out the provisions and purposes of the open

records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. All expenditures from the attorney general's open government 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 attorney general or a person designated by the attorney general.

(b) All civil penalties, expenses, costs and attorney fees awarded in an action brought by the attorney general pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, or the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, or pursuant to a consent order or finding of violation of the attorney general as provided in section 1 or section 4, and amendments thereto, shall be credited to the attorney general's open government fund.

New Sec. 8. (a) Subject to the availability of appropriations, the attorney general shall provide and coordinate training throughout the state to promote knowledge of, and compliance with, the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. The attorney general may consult and coordinate with any appropriate organization to provide training.

(b) The attorney general may establish a program of computerized training to promote knowledge of, and compliance with, the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317, and amendments thereto, and to make training available throughout the state.

(c) The attorney general may approve training programs that satisfy training requirements imposed by the district court or by any order or judgment pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto.

New Sec. 9. The attorney general may adopt rules and regulations to implement and administer the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto.

Sec. 10. K.S.A. 2014 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2014 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2014 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts

or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense 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.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or

evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable



individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state

educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to ~~subsection (b)~~ of K.S.A. 40-409**(b)**, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under ~~subsection (a)~~ of K.S.A. 40-2,156**(a)**, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers, DD Form 214. Such papers shall be disclosed: To the military

dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with ~~subsection (h)(1) of~~ K.S.A. 44-532(h)(1), and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the purpose of public agency notifications or communications which are widely distributed to the public.

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act, and amendments thereto, upon request of the party submitting such records.

(51) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a law enforcement officer as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, parole officer, probation officer, court services officer or community correctional services officer. Such individual officer shall file with the custodian of such record a request to have such officer's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such officer's identifying information from such public access. Such restriction shall expire after five years and such officer may file with the custodian of such record a new request for restriction at any time.

(52) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a federal judge, a justice of the supreme court, a judge of the court of appeals, a district judge, a district magistrate judge, a municipal judge, the United States attorney for the district of Kansas, an assistant United States attorney, a special assistant United States attorney, the attorney general, an assistant attorney general, ~~a district attorney or county attorney or an assistant district attorney or assistant county attorney~~ special assistant attorney general, a county attorney, an assistant county attorney, a special assistant county attorney, a district attorney, an assistant district attorney, a special assistant district attorney, a city attorney, an assistant city attorney or a special assistant city attorney. Such person shall file with the custodian of such record a request to have such person's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such person's identifying information from such public access. Such restriction shall expire after five years and such person may file with the custodian of such record a new request for

restriction at any time.

(53) Records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons training in order to be licensed or has made application for such license under the personal and family protection act, K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto, shall not be disclosed unless otherwise required by law.

(54) Records of a utility concerning information about cyber security threats, attacks or general attempts to attack utility operations provided to law enforcement agencies, the state corporation commission, the federal energy regulatory commission, the department of energy, the southwest power pool, the North American electric reliability corporation, the federal communications commission or any other federal, state or regional organization that has a responsibility for the safeguarding of telecommunications, electric, potable water, waste water disposal or treatment, motor fuel or natural gas energy supply systems.

(55) Records of a public agency containing information or reports obtained and prepared by the office of the state bank commissioner in the course of licensing or examining a person engaged in money transmission business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall not be disclosed except pursuant to K.S.A. 9-513c, and amendments thereto, or unless otherwise required by law.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless

disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 11. K.S.A. 2014 Supp. 45-222 is hereby amended to read as follows: 45-222.

(a) The district court of any county in which public records are located shall have jurisdiction to enforce the purposes of this act with respect to such records, by injunction, mandamus, declaratory judgment or other appropriate order, in an action brought by any person, the attorney general or a county or district attorney. The district court may require a defendant to complete training approved by the attorney general concerning the requirements of the open records act.

(b) In any action hereunder, the court shall determine the matter de novo. The court on its own motion, or on motion of either party, may view the records in controversy in camera before reaching a decision.

(c) In any action hereunder, or under section 1, and amendments thereto, the burden of proof shall be on the public agency to sustain its action.

(d) In any action hereunder, the court shall award costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs to the plaintiff if the court finds that the agency's denial of access to the public record was not in good faith and without a reasonable basis in fact or law. The award shall be assessed against the public agency that the court determines to be responsible for the violation.

~~(d)~~(e) In any action hereunder in which the defendant is the prevailing party, the court shall award to the defendant costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs if the court finds that the plaintiff maintained the action not in good faith and without a reasonable basis in fact or law.

~~(e)~~(f) In any action hereunder brought by the attorney general or a county or district attorney, if the court finds that any provisions were violated, such court:

(1) Except as provided in subsection (f)(2), may award the attorney general's or the county or district attorney's reasonable expenses, investigation costs and attorney fees; and

(2) shall award the same if the court determines that the violation was not made in good faith and without a reasonable basis in fact or law.

(g) Except as otherwise provided by law, proceedings arising under this section shall be assigned for hearing and trial at the earliest practicable date.

~~(f)~~(h) The provisions of subsections ~~(e)~~(d) and ~~(d)~~(e) concerning the awarding of costs and attorney fees for services rendered during an appeal shall apply only to actions which are based on causes of action accruing on or after July 1, 2004.

Sec. 12. K.S.A. 45-223 is hereby amended to read as follows: 45-223. (a) Any public agency subject to this act that knowingly violates any of the provisions of this act or that intentionally fails to furnish information as required by this act shall be liable for the payment of a civil penalty in an action brought by the attorney general or a county or district attorney, in a sum set by the court of not to exceed \$500 for each violation.

(b) Any civil penalty sued for and recovered hereunder by the attorney general shall

be paid into the ~~state general~~ attorney general's open government fund. Any civil penalty sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county in which the proceedings were instigated.

Sec. 13. K.S.A. 45-228 is hereby amended to read as follows: 45-228. (a) In investigating alleged violations of the Kansas open records act, the attorney general or county or district attorney may:

- ~~(a)~~ (1) Subpoena witnesses, evidence, records, documents or other material;
- ~~(b)~~ (2) take testimony under oath;
- ~~(c)~~ (3) examine or cause to be examined any records or other documentary material of whatever nature relevant to such alleged violations;
- ~~(d)~~ (4) require attendance during such examination of documentary material and take testimony under oath or acknowledgment in respect of any such documentary material; ~~and~~

- ~~(e)~~ (5) serve interrogatories; ~~and~~
- (6) administer oaths and affirmations.

(b) If a public agency claims in writing that any records or documents, or any portion thereof, obtained by the attorney general or a county or district attorney pursuant to subsection (a) are exempt from disclosure for any reason, the attorney general or a county or district attorney shall not further disclose that record or document, nor the contents thereof, unless ordered to do so by a district court enforcing the open records act in connection with such record or document. Such records and documents in the possession of the attorney general or a county or district attorney shall not be subject to a request for inspection and copying under the open records act and shall not be subject to discovery, subpoena or other process.

(c) Service by the attorney general or a county or district attorney of any interrogatories or subpoena upon any person shall be made:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(d) If any person willfully fails or refuses to file any response to a request for information, records or other materials required by this section, respond to interrogatories or obey any subpoena issued by the attorney general or a county or district attorney, the attorney general or a county or district attorney may, after notice, apply to the district court of the county where the request, interrogatories or subpoena was issued, or of any other county where venue is proper, and after a hearing thereon the district court may:

(1) Issue an order requiring a response to the request for information, records or other materials, a response to the interrogatories or compliance with the subpoena; or

(2) grant such other relief as may be required, until the person provides the requested response for information, records or other materials, responds to the interrogatories or obeys the subpoena.

Sec. 14. K.S.A. 2014 Supp. 75-4317a is hereby amended to read as follows: 75-4317a. As used in the open meetings act, "meeting" means any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a public body or agency subject to this act for the purpose of discussing the business or affairs of the public body or

agency.

Sec. 15. K.S.A. 2014 Supp. 75-4318 is hereby amended to read as follows: 75-4318. (a) Subject to the provisions of subsection (g), all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such public bodies or agencies shall be by secret ballot. Meetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor's executive order shall be open to the public in accordance with this act.

(b) Notice of the date, time and place of any regular or special meeting of a public body or agency designated ~~hereinabove~~ in subsection (a) shall be furnished to any person requesting such notice, except that:

(1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition;

(2) if notice is furnished to an executive officer of an employees' organization or trade association, such notice shall be deemed to have been furnished to the entire membership of such organization or association; and

(3) the public body or agency may require that a request to receive notice must be submitted again to the public body or agency prior to the commencement of any subsequent fiscal year of the public body or agency during which the person wishes to continue receiving notice, but, prior to discontinuing notice to any person, the public body or agency must notify the person that notice will be discontinued unless the person resubmits a request to receive notice.

(c) It shall be the duty of the presiding officer or other person calling the meeting, if the meeting is not called by the presiding officer, to furnish the notice required by subsection (b).

(d) Prior to any meeting ~~hereinabove~~ mentioned by subsection (a), any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting the agenda.

(e) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a), but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.

(f) Except as provided by section 22 of article 2 of the constitution of the state of Kansas, interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.

(g) The provisions of the open meetings law shall not apply:

(1) To any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions;

(2) to the prisoner review board when conducting parole hearings or parole

violation hearings held at a correctional institution;

(3) to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives; and

(4) if otherwise provided by state or federal law or by rules of the Kansas senate or house of representatives.

Sec. 16. K.S.A. 2014 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all public bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of: (1) The justification for closing the meeting; (2) the subjects to be discussed during the closed or executive meeting; and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the public body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

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

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the public body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804, and amendments thereto;
- (8) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (d)(1) of~~ K.S.A. 38-2212(d)(1), and amendments thereto, or ~~subsection (e) of~~ K.S.A. 38-2213(e), and amendments thereto;
- (9) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (j) of~~ K.S.A. 22a-243(j), and amendments thereto;
- (10) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (e) of~~ K.S.A. 44-596(e), and amendments thereto;
- (11) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (g) of~~ K.S.A. 39-7,119(g), and amendments thereto;
- (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;
- (13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building



or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the public body or agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

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

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2014 Supp. 75-7427, and amendments thereto; and

(16) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2014 Supp. 46-3801, and amendments thereto.

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

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

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

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

Sec. 17. K.S.A. 2014 Supp. 75-4320 is hereby amended to read as follows: 75-4320. (a) Any member of a public body or agency subject to ~~this the open meetings~~ act who knowingly violates any of the provisions of ~~this such~~ act or who intentionally fails to furnish information as required by ~~subsection (b)~~ of K.S.A. 75-4318(b), and amendments thereto, shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney, in a sum set by the court of not to exceed \$500 for each violation. In addition, any binding action which is taken at a meeting not in substantial compliance with the provisions of ~~this the open meetings~~ act shall be voidable in any action brought by the attorney general or county or district attorney in the district court of the county in which the meeting was held within 21 days of the meeting, and the court shall have jurisdiction to issue injunctions or writs of mandamus to enforce the provisions of ~~this the open meetings~~ act.

(b) Civil penalties sued for and recovered hereunder by the attorney general shall be paid into the ~~state general~~ attorney general's open government fund. Civil penalties sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

(c) No fine shall be imposed pursuant to subsection (a) for violations of ~~subsection (f)~~ of K.S.A. 75-4318(f), and amendments thereto, which occur prior to July 1, 2009.

Sec. 18. K.S.A. 75-4320a is hereby amended to read as follows: 75-4320a. (a) The district court of any county in which a meeting is held shall have jurisdiction to enforce

the purposes of K.S.A. 75-4318 and 75-4319, and amendments thereto, with respect to such meeting, by injunction, mandamus, declaratory judgment or other appropriate order, on application of any person. The district court may require a defendant to complete training approved by the attorney general concerning the requirements of the open meetings act.

(b) In any action hereunder or under section 4, and amendments thereto, the burden of proof shall be on the public body or agency to sustain its action.

(c) In any action hereunder, the court may award court costs to the person seeking to enforce the provisions of K.S.A. 75-4318 or 75-4319, and amendments thereto, if the court finds that the provisions of those statutes were violated. The award shall be assessed against the public ~~agency or body~~ or agency responsible for the violation.

(d) In any action hereunder in which the defendant is the prevailing party, the court may award to the defendant court costs if the court finds that the plaintiff maintained the action frivolously, not in good faith or without a reasonable basis in fact or law.

(e) In any action hereunder brought by the attorney general or a county or district attorney, if the court finds that any provisions of K.S.A. 75-4318 or 75-4319, and amendments thereto, were violated, such court:

(1) Except as provided in subsection (e)(2), may award the attorney general's or the county or district attorney's reasonable expenses, investigation costs and attorney fees; and

(2) shall award the same if the court determines that the violation was not made in good faith and without a reasonable basis in fact or law.

(f) Except as otherwise provided by law, proceedings arising under this section shall take precedence over all other cases and shall be assigned for hearing and trial at the earliest practicable date.

~~(g)~~ (g) As used in this section, "meeting" has the meaning provided by K.S.A. 75-4317a, and amendments thereto.

Sec. 19. K.S.A. 2014 Supp. 75-4320b is hereby amended to read as follows: 75-4320b. (a) In investigating alleged violations of the Kansas open meetings act, the attorney general or county or district attorney may:

~~(a)(1)~~ (1) Subpoena witnesses, evidence, records, documents or other material;

~~(b)(2)~~ (2) take testimony under oath;

~~(c)(3)~~ (3) examine or cause to be examined any records or other documentary material of whatever nature relevant to such alleged violations;

~~(d)(4)~~ (4) require attendance during such examination of documentary material and take testimony under oath or acknowledgment in respect of any such documentary material; ~~and~~

~~(e)(5)~~ (5) serve interrogatories; and

(6) administer oaths and affirmations.

(b) Service by the attorney general or a county or district attorney of any interrogatories or subpoena upon any person shall be made:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(c) If any person willfully fails or refuses to file any response to a request for information, records or other materials required by this section, respond to

interrogatories or obey any subpoena issued by the attorney general or a county or district attorney, the attorney general or a county or district attorney may, after notice, apply to the district court of the county where the request, interrogatories or subpoena was issued, or of any other county where venue is proper, and after a hearing thereon, the district court may:

(1) Issue an order requiring a response to the request for information, records or other materials, a response to interrogatories or compliance with the subpoena; or

(2) grant such other relief as may be required, until the person provides the requested response for information, records or other materials, responds to the interrogatories or obeys the subpoena.

Sec. 20. K.S.A. 45-223, 45-228 and 75-4320a and K.S.A. 2014 Supp. 45-221, 45-222, 75-4317a, 75-4318, 75-4319, 75-4320 and 75-4320b are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, in line 1, by striking all after "concerning"; by striking line 2; in line 3, by striking all before the period and inserting "public bodies or agencies; relating to the state of Kansas and local units of government; providing certain powers to the attorney general for investigation of violations of the open records act and the open meetings act; attorney general's open government fund; amending K.S.A. 45-223, 45-228 and 75-4320a and K.S.A. 2014 Supp. 45-221, 45-222, 75-4317a, 75-4318, 75-4319, 75-4320 and 75-4320b and repealing the existing sections";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

JOHN BARKER

CHARLES MACHEERS

JOHN CARMICHAEL

*Conferees on part of House*

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2256**.

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

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

Absent or Not Voting: McGinn, Ostmeyer.

The Conference Committee Report was adopted.

## REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 303** be amended on page 1, in line 14, by striking all after the period; by striking all in lines 15

and 16; in line 17, after "Any" by inserting "individual or small group"; also in line 17, by striking "individual or group";

On page 6, in line 1, by striking "51" and inserting "101"; in line 6, by striking "50" and inserting "100";

On page 7, in line 27, after "after" by inserting "January 1, 2016 and"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 301** be amended on page 22, by striking all in lines 21 through 43;

By striking all on pages 23 through 29;

On page 30, by striking all in lines 1 through 3;

On page 67, in line 5, by striking "21-6614, 21-6614e,";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking "21-6614,"; in line 16, by striking "21-6614e,"; and the bill be passed as amended.

On motion of Senator Bruce, the Senate adjourned until 8:00 a.m., Friday, May 8, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.  
COREY CARNAHAN, *Secretary of the Senate*.

