

# Journal of the Senate

SIXTY-SIXTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, May 1, 2018, 10:00 a.m.

The Senate was called to order by President Susan Wagle.  
The roll was called with 40 senators present.  
Invocation by guest chaplain, Senator Dan Goddard:

God of the universe, we give you thanks for giving us another day. We pray the men and women assembled here will humble themselves to the sacred task of governing for the people of Kansas.

We pray for laws that will protect and respect the earth from which we prosper. We pray for wisdom, not rhetoric, and generosity, not indifference. we pray for leaders gifted in diplomacy and blessed with character and integrity.

Lord, inspire the men and women of this body and the people who serve them to be their best selves, that they may in turn be an inspiration to all Kansans.

May all that is done this day be for Your honor and glory. Amen.

*(Based on a Prayer by the reverend Michael Livingston, November 7, 2012)*

The Pledge of Allegiance was led by President Wagle.

## MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **SB 415** and has appointed Representatives Johnson, Phillips and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 449** and has appointed Representatives Johnson, Phillips and Sawyer as conferees on the part of the House.

The House announced the appointment of Representatives Jennings, Whitmer and Highberger as conferees on **SB 284** to replace Representatives Kelly, Powell and Finney.

The House adopts the Conference Committee report on **S Sub HB 2028**.

## SPECIAL REMARKS

Senator Faust-Goudeau recognized Wesley Collins, a junior at Washburn University. He is double majoring in international business and marketing, and has an interest in the policy process in Kansas.

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

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

#### AFTERNOON SESSION

#### ORIGINAL MOTION

Senator Denning 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 260**, **SB 261**, **SB 281**, **SB 288**; **H Sub SB 336**; **Sub HB 2129**; **HB 2523**, **HB 2571**.

#### CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Wilborn moved the Senate concur in House amendments to **SB 281**.

**SB 281**, AN ACT concerning protection orders; relating to the protection from abuse act; the protection from stalking, sexual assault or human trafficking act; amending K.S.A. 60-3105 and K.S.A. 2017 Supp. 21-5924, 60-3104, 60-31a01, 60-31a02, 60-31a03, 60-31a04, 60-31a05, 60-31a06, 60-31a07, 60-31a08 and 60-31a09 and repealing the existing sections.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The Senate concurred.

Senator Wilborn moved the Senate concur in House amendments to **SB 288**.

**SB 288**, AN ACT repealing K.S.A. 69-102 and 69-103; concerning service of process; procuring adjournment for trial.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Hilderbrand.

The Senate concurred.

#### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 261** 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 2, following line 22, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 23-2511 is hereby amended to read as follows: 23-

2511. ~~(a)~~ Every person who performs a marriage ceremony under the provisions of this act shall endorse the person's certificate of the marriage on the license, give the duplicate copy of the license to the parties to the marriage and return the license, within 10 days after the marriage, to the judge or clerk of the district court who issued it. ~~The judge or clerk shall record the marriage on the marriage record in the office of the judge or clerk and shall forward, not later than the third day of the following month, to the secretary of health and environment the license and certificate of marriage, together with a statement of the names of the parties and the name and address of the person who performed the marriage ceremony. Not later than the third day of the following month, the judge or clerk shall submit the information from the license to the vital statistics integrated information system maintained by the secretary of health and environment, or by other means as designated by the secretary and the judicial administrator.~~

~~(b) If no marriage license has been issued by the judge or clerk of the district court during a month, the judge or clerk shall promptly notify the secretary of health and environment to that effect on a form provided for that purpose.~~

Sec. 3. K.S.A. 2017 Supp. 50-6,109a is hereby amended to read as follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction and authority over all matters involving the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to:

(1) Employ or appoint agents as necessary to implement, administer and enforce the act;

(2) contract;

(3) expend funds;

(4) license and discipline;

(5) investigate;

(6) issue subpoenas;

(7) keep statistics; and

(8) conduct education and outreach programs to promote compliance with the act.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of the scrap metal theft reduction act.

(c) There is hereby established in the state treasury the scrap metal theft reduction fee fund to be administered by the attorney general. All moneys received by the attorney general from fees, charges or penalties collected under the provisions of the scrap metal theft reduction act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal theft reduction fee fund. All expenditures from such 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 the attorney general's designee. All moneys credited to the scrap metal theft reduction fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of the scrap metal theft reduction act.

(d) (1) Before January 1, ~~2019~~ 2020, the attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 2017 Supp. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for

any other purpose deemed necessary by the attorney general to implement and enforce the provisions of the scrap metal theft reduction act.

(2) On or before February 1, 2019, the attorney general shall submit a report to the president of the senate, the speaker of the house of representatives and the standing committees on judiciary in the senate and the house of representatives on the progress achieved in establishing the database required by this subsection.

(e) The information required by K.S.A. 2017 Supp. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as part of the system shall:

(1) Be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation or as permitted in subsection (d); and

(2) not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

Sec. 4. K.S.A. 2017 Supp. 50-6,109c is hereby amended to read as follows: 50-6,109c. (a) Any scrap metal dealer who violates any of the provisions of the scrap metal theft reduction act, in addition to any other penalty provided by law, may incur a civil penalty imposed pursuant to subsection (b) in an amount not less than \$100 nor more than \$5,000 for each violation.

(b) The attorney general, upon a finding that a scrap metal dealer or any employee or agent thereof or any person or entity required to be registered as a scrap metal dealer has violated any of the provisions of the scrap metal theft reduction act may impose a civil penalty as provided in this subsection upon such scrap metal dealer.

(c) A civil penalty shall not be imposed pursuant to this section except upon the written order of the attorney general to the scrap metal dealer who is responsible for the violation. Such order is a final order for purposes of judicial review and shall state the violation, the penalty to be imposed and the right of such dealer to appeal as provided in the Kansas judicial review act.

(d) This section shall be unenforceable and shall not apply from ~~the effective date of this act June 1, 2017,~~ to January 1, ~~2019~~ 2020.

Sec. 5. K.S.A. 2017 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person meets the requirements of this subsection.

(1) Such person shall present to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following: The seller's name, address, sex, date of birth and the seller's driver's license, military identification card, passport or personal identification license. An official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(2) Such person shall complete and sign the statement provided for in subsection (b)(10).

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee

or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

- (1) The time, date and place of transaction;
  - (2) the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;
  - (3) a copy of the identification card or document containing such identifying number. Failure to comply with the provisions of this paragraph between ~~the effective date of this act June 1, 2017,~~ and January 1, ~~2019~~ 2020, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation;
  - (4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;
  - (5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
  - (6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
  - (7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;
  - (8) the price paid for, traded for or dealt for in a transaction for the junk vehicle or other regulated scrap metal property;
  - (9) the full name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase; and
  - (10) a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.
- (c) Every scrap metal dealer shall photograph the item or lot of items being sold at the time of purchase or receipt of any item for which such information is required to be presented. Such photographs shall be kept with the record of the transaction and the scrap metal dealer's register of information required by subsection (b). Failure to comply with the provisions of this subsection between ~~the effective date of this act June 1, 2017,~~ and January 1, ~~2019~~ 2020, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation.
- (d) The scrap metal dealer's register of information required by subsection (b), including copies of identification cards and signed statements by sellers, and photographs required by subsection (c) may be kept in electronic format.
- (e) Every scrap metal dealer shall forward the information required by this section to the database described in K.S.A. 2017 Supp. 50-6,109a, and amendments thereto.

(f) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a:

- (1) Registered scrap metal dealer;
- (2) vehicle dealer licensed under chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or
- (3) scrap metal dealer or vehicle dealer registered or licensed in another state.

(g) (1) Except as provided in subsection (g)(2), this section shall not apply to transactions in which the seller is known to the purchasing scrap metal dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(2) The attorney general may determine, by rules and regulations, which of the requirements of this section shall apply to transactions described in subsection (g)(1).

(h) The amendments made to subsection (e) by section 13 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from ~~the effective date of this act June 1, 2017,~~ to January 1, 2019, 2020.

Sec. 6. K.S.A. 2017 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2017 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2017 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of the scrap metal theft reduction act shall be open at all times to law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2017 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:

- (1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and
- (2) obtaining an appropriate bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

(d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item on behalf of the governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business; or scrap metal dealer:

- (1) Utility access cover;
- (2) street light poles or fixtures;

- (3) road or bridge guard rails;
- (4) highway or street sign;
- (5) water meter cover;
- (6) traffic directional or traffic control signs;
- (7) traffic light signals;
- (8) any metal marked with any form of the name or initials of a governmental entity;
- (9) property owned and marked by a telephone, cable, electric, water or other utility provider;
- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs;
- (19) bleachers or risers, in whole or in part;
- (20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge; and
- (21) burnt wire.

(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

(f) Failure to comply with the provisions of this section between ~~the effective date of this act June 1, 2017,~~ and January 1, ~~2019 2020~~, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation.

Sec. 7. K.S.A. 2017 Supp. 50-6,112a is hereby amended to read as follows: 50-6,112a. (a) A scrap metal dealer shall not purchase any regulated scrap metal without having first registered each place of business with the attorney general as herein provided.

(b) The attorney general shall establish a system for the public to confirm scrap metal dealer registration certificates. Such system shall include a listing of valid registration certificates and such other information collected pursuant to the scrap metal theft reduction act, as the attorney general may determine is appropriate. Disclosure of any information through use of the system established by the attorney general shall not be deemed to be an endorsement of any scrap metal dealer or determination of any facts, qualifications, information or reputation of any scrap metal dealer by the attorney general, the state, or any of their respective agents, officers, employees or assigns.

(c) A registration for a scrap metal dealer shall be verified and upon a form approved by the attorney general and contain:

(1) (A) The name and residence of the applicant, including all previous names and aliases; or

(B) if the applicant is a: Corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such corporation; or partnership or limited liability company, the name and address of each partner or member;

(2) the length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;

(3) the particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;

(4) the name of the owner of the premises upon which the place of business is located; and

(5) the applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for: A violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2017 Supp. 21-5801 through 21-5839 or K.S.A. 2017 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2017 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2017 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2017 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(d) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than \$500 nor more than \$1,500, as prescribed by the attorney general for each particular place of business for which a registration is desired.

(e) The attorney general shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of one year.

(f) If an original registration is accepted, the attorney general shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The renewal fee shall be not more than \$1,500, as prescribed by the attorney general.

(g) Any registration issued under the scrap metal theft reduction act shall not be transferable.

(h) This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

(i) The amendments made to subsections (d) and (f) by section 15 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from ~~the effective date of this act June 1, 2017,~~ to January 1, 2019 2020.

Sec. 8. K.S.A. 2017 Supp. 50-6,112b is hereby amended to read as follows: 50-



6,112b. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the attorney general shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is not a citizen or legal permanent resident of the United States.

(2) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under the scrap metal theft reduction act.

(3) A person who, within 10 years immediately preceding the date of filing, has pled guilty to, entered into a diversion agreement for, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2017 Supp. 21-5801 through 21-5839 or K.S.A. 2017 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2017 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2017 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2017 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(4) A person who within the 10 years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last 10 years.

(6) A partnership or limited liability company, unless all partners or members of the partnership or limited liability company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under the scrap metal theft reduction act.

(10) A person who does not own the premises upon which the place of business is located for which a license is sought, unless the person has a written lease for at least  $\frac{3}{4}$  of the period for which the license is to be issued.

(c) Any person filing a scrap metal dealer registration may be subject to a criminal history records check and may be given a written notice that a criminal history records

check is required. The attorney general may require such applicant to be fingerprinted and submit to a state and national criminal history record check. If required, such fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The attorney general shall submit any fingerprints provided to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the attorney general in the taking and processing of fingerprints of applicants. The attorney general may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of whether the scrap metal dealer registration shall be accepted. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

(d) The amendments made to subsections (b)(10) and (c) by section 16 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from ~~the effective date of this act June 1, 2017,~~ to January 1, ~~2019~~ 2020.

Sec. 9. K.S.A. 2017 Supp. 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 includes a total charge not in excess of \$5,000 for expenses in any way related to funeral, cremation or burial; but such term 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 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: A victim; a dependent of a deceased victim; a third person other than a collateral source; or 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; ~~or~~
- (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 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 21-3414, prior to their repeal, or K.S.A. 2017 Supp. 21-5405, 21-5406 and ~~subsection (b) of~~ K.S.A. 2017 Supp. 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.

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

Also on page 2, in line 39, after "20-362" by inserting ", 23-2511, 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a, 50-6,112b, 74-7301";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "state agencies; relating to"; also in line 1, by striking "relating to"; in line 3, after the semicolon by inserting "marriage license information; notification by courts to the secretary of health and environment; attorney general; enforcement of the scrap metal theft reduction act; crime victims compensation board; definition of collateral source;"; in line 6, after "20-362" by inserting ", 23-2511, 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a, 50-6,112b, 74-7301";

BLAINE FINCH

BRAD RALPH

JOHN CARMICHAEL

*Conferees on part of House*

RICHARD WILBORN

JULIA LYNN

DAVID HALEY

*Conferees on part of Senate*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **SB 261**.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 336** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as House Substitute for Senate Bill No. 336, as follows:

On page 21, following line 17, by inserting:

"Sec. 8. K.S.A. 2017 Supp. 45-254 is hereby amended to read as follows: 45-254.

(a) Every audio or video recording made and retained by law enforcement using a body camera or a vehicle camera shall be considered a criminal investigation record as defined in K.S.A. 45-217, and amendments thereto. The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021.

(b) In addition to any disclosure authorized pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, a person described in subsection (c) may ~~request~~ make a request in accordance with procedures adopted under K.S.A. 45-220, and amendments thereto, to listen to an audio recording or to view a video recording made by a body camera or a vehicle camera. The law enforcement agency shall allow the person to listen to the requested audio recording or to view the requested video recording within 20 days after making the request, and may charge a reasonable fee for such services provided by the law enforcement agency.

(c) Any of the following may make a request under subsection (b):

(1) A person who is a subject of the recording;

(2) ~~a~~ any parent or legal guardian of a person under 18 years of age who is a subject of the recording;

(3) ~~an attorney for a person described in subsection (c)(1) or (c)(2); and~~

(4) ~~an heir at law, an executor or an administrator of a decedent, when the a decedent is a subject of the recording; and~~

(4) an attorney for a person described in this subsection.

(d) As used in this section:

(1) "Body camera" means a device that is worn by a law enforcement officer that electronically records audio or video of such officer's activities.

(2) "Heir at law" means: (A) An executor or an administrator of the decedent; (B) the spouse of the decedent, if living; (C) if there is no living spouse of the decedent, an adult child of the decedent, if living; or (D) if there is no living spouse or adult child of the decedent, a parent of the decedent, if living.

(3) "Vehicle camera" means a device that is attached to a law enforcement vehicle that electronically records audio or video of law enforcement officers' activities.

Sec. 9. K.S.A. 2017 Supp. 75-3520 is hereby amended to read as follows: 75-3520.

(a) (1) Unless required by federal law, no document available for public inspection or copying shall contain an individual's social security number if such document contains such individual's personal information. "Personal information" shall include, but not be limited to, name, address, phone number or e-mail address.

(2) The provisions of ~~paragraph paragraphs~~ paragraphs (1) and (3) of this subsection shall not apply to documents recorded in the official records of any recorder of deeds of the county or to any documents filed in the official records of the court and shall be

included, but not limited to, such documents of any records that when filed constitutes:

- ~~(1)~~(A) A consensual or nonconsensual lien;
- ~~(2)~~(B) an eviction record;
- ~~(3)~~(C) a judgment;
- ~~(4)~~(D) a conviction or arrest;
- ~~(5)~~(E) a bankruptcy;
- ~~(6)~~(F) a secretary of state filing; or
- ~~(7)~~(G) a professional license.

(3) Any document or record that contains all or any portion of an individual's social security number shall have all portions of all social security numbers redacted before the document or record is made available for public inspection or copying.

(4) (A) An agency shall give notice as defined in K.S.A. 2017 Supp. 50-7a01, and amendments thereto, to any individual whose personal information was disclosed in violation of this subsection when it becomes aware of the unauthorized disclosure. Notice shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and any measures necessary to determine the scope of unauthorized disclosures.

(B) The agency shall offer to such individuals credit monitoring services at no cost for a period of one year. The agency shall provide all information necessary for such individual to enroll in such services and shall include information on how such individual can place a security freeze on such individual's consumer report.

(b) (1) No person, including an individual, firm, corporation, association, partnership, joint venture or other business entity, or any employee or agent thereof, shall solicit, require or use for commercial purposes an individual's social security number unless such number is necessary for such person's normal course of business and there is a specific use for such number for which no other identifying number may be used.

(2) Paragraph (1) of this subsection does not apply to documents or records that are recorded or required to be open to the public pursuant to state or federal law, or by court rule or order, and this paragraph does not limit access to these documents or records.

(3) Paragraph (1) of this subsection does not apply to the collection, use or release of social security numbers for the following purposes:

(A) Mailing of documents that include social security numbers sent as part of an application or enrollment process or to establish, amend or terminate an account, contract or policy or to confirm the accuracy of the social security number;

(B) internal verification or administrative purposes;

(C) investigate or prevent fraud, conduct background checks, conduct social or scientific research, collect a debt, obtain a credit report from or furnish data to a consumer reporting agency pursuant to the fair credit reporting act, 15 U.S.C. § 1681 et seq., undertake a permissible purpose enumerated under the Gramm-Leach Bliley Act, 15 U.S.C. § 6802 (e), or locate an individual who is missing, a lost relative, or due a benefit, such as pension, insurance or unclaimed property benefit; or

(D) otherwise required by state or federal law or regulation.

(c) An individual who is aggrieved by a violation of this section may recover a civil penalty of not more than \$1,000 for each violation.";

Also on page 21, in line 19, by striking "and" and inserting a comma; also in line 19, after "45-229" by inserting ", 45-254 and 75-3520";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "public records; relating to"; also in line 1, by striking "relating to"; in line 3, after the second semicolon by inserting "disclosure of law enforcement recordings using a body camera or vehicle camera; disclosure of personal information; social security numbers; notice of unauthorized disclosure;"; in line 5, by striking the first "and" and inserting a comma; also in line 5, after "45-229" by inserting ", 45-254 and 75-3520";

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

BLAINE FINCH  
BRAD RALPH  
JOHN CARMICHAEL

*Conferees on part of House*

RICHARD WILBORN  
JULIA LYNN  
DAVID HALEY

*Conferees on part of Senate*

Senator Baumgardner moved the Senate adopt the Conference Committee Report on **H Sub SB 336**.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Waggle, Wilborn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2129** 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 2, following line 28, by inserting:

"Sec. 5. K.S.A. 75-6521 is hereby amended to read as follows: 75-6521. As used in K.S.A. 75-6521 through 75-6523, and amendments thereto:

(a) "Commission" means the Kansas state employees health care commission established pursuant to K.S.A. 75-6502, and amendments thereto.

(b) "Director" means the director of accounts and reports.

(c) "Employee" means any person who is an elected or appointed officer or any employee of the state in the classified service or unclassified service under the Kansas civil service act, other than persons who are employed on a seasonal or temporary basis.

(d) "Long-term care insurance" means any long-term care insurance policy ~~which~~ that is authorized to be sold in the state of Kansas.

(e) "Indemnity insurance" means any supplemental liability insurance policy that

protects an individual against loss arising from a specific cause and that is authorized to be sold in the state of Kansas.

(f) "State" means the state of Kansas and any state agency as defined ~~in subsection (3) of K.S.A. 75-3701(3)~~, and amendments thereto.

Sec. 6. K.S.A. 75-6522 is hereby amended to read as follows: 75-6522. (a) The Kansas state employees health care commission shall offer ~~to all employees~~ long-term care insurance and indemnity insurance to all employees. The commission may enter into one or more group insurance contracts to provide such ~~long-term care~~ insurance.

(b) ~~The Kansas state employees health care commission~~ is hereby authorized to negotiate and enter into contracts with qualified insurers for the purpose of providing long-term care insurance and indemnity insurance. The commission shall advertise for proposals, shall negotiate with not less than three firms or other parties submitting proposals, and shall select from among those submitting proposals the firm or other contracting party to contract with for the purpose of entering into contracts for long-term care insurance and indemnity insurance.

(c) The provisions of K.S.A. 75-4317 ~~to through~~ 75-4320a, ~~inclusive~~, and amendments thereto, shall not apply to meetings of the ~~Kansas state employees health care~~ commission when the commission meets solely for the purpose of discussing and preparing strategies for negotiations for contracts for long-term care insurance or indemnity insurance.

(d) Contracts entered into pursuant to this section shall not be subject to the provisions of K.S.A. 75-3738 ~~to through~~ 75-3740, ~~inclusive~~, and amendments thereto. Such contracts may be for terms of not more than three years and may be renegotiated and renewed. All such contracts shall be subject to the limits of appropriations made or available therefor and subject to the provisions of appropriations acts relating thereto.

(e) In exercising and performing the powers, duties and functions prescribed by this section, the ~~Kansas state employees health care~~ commission may adopt rules and regulations and enter into such contracts as may be necessary.

Sec. 7. K.S.A. 75-6523 is hereby amended to read as follows: 75-6523. (a) The purchase of long-term care insurance and indemnity insurance by an employee shall be voluntary, and the cost of such insurance shall be paid by the employee. The cost of such insurance for such employee shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the long-term care insurance and indemnity insurance payable to employees. All moneys deducted pursuant to this section shall be remitted to the commission and deposited in the cafeteria benefits fund in the manner provided by K.S.A. 75-6513, and amendments thereto.";

Also on page 2, in line 29, by striking the first "and" and inserting a comma; also in line 29, after "75-3744" by inserting ", 75-6521, 75-6522 and 75-6523";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the third semicolon by inserting "payroll deductions for indemnity insurance;"; in line 4, by striking the first "and" and inserting a comma; also in line 4, after "75-3744" by inserting ", 75-6521, 75-6522 and 75-6523";

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



CAROLYN MCGINN

RICK BILLINGER

LAURA KELLY

*Conferees on part of Senate*

BILL SUTTON

CHUCK WEBER

TOM BURROUGHS

*Conferees on part of House*

Senator McGinn moved the Senate adopt the Conference Committee Report on **Sub HB 2129**.

On roll call, the vote was: Yeas 34; Nays 6; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, McGinn, Olson, Petersen, Pettey, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Wagle, Wilborn.

Nays: Fitzgerald, Hilderbrand, Masterson, Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

#### **CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2523** submits the following report:

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

On page 3, following line 7, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 21-5512 is hereby amended to read as follows: 21-5512. (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:

(1) The offender is an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services for a correctional institution, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate;

(2) the offender is a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide supervision services for persons on parole, conditional release or postrelease supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate who has been released on parole, conditional release or postrelease supervision and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision;

(3) the offender is a law enforcement officer, an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail and the person with

whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such jail;

(4) the offender is a law enforcement officer, an employee of a juvenile detention facility or sanctions house, or the employee of a contractor who is under contract to provide services in such facility or sanctions house and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility or sanctions house;

(5) the offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility;

(6) the offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide direct supervision and offender control services to the department of corrections and:

(A) The person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been:

(i) Released on conditional release from a juvenile correctional facility under the supervision and control of the department of corrections or juvenile community supervision agency; or

(ii) placed in the custody of the department of corrections under the supervision and control of the department of corrections or juvenile community supervision agency; and

(B) the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under supervision;

(7) the offender is an employee of the Kansas department for aging and disability services or the Kansas department for children and families or the employee of a contractor who is under contract to provide services in an aging and disability or children and families institution or to the Kansas department for aging and disability services or the Kansas department for children and families and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a patient in such institution or in the custody of the secretary for aging and disability services or the secretary for children and families;

(8) the offender is a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a foster child placed in the care of such family foster home;

(9) the offender is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of ~~subsection (b)~~ of K.S.A. 2017 Supp. 21-5604(b), and amendments thereto,

shall apply, not this subsection;

(10) the offender is a court services officer or the employee of a contractor who is under contract to provide supervision services for persons under court services supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been placed on probation under the supervision and control of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services;

(11) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections;~~or~~

(12) the offender is a surety or an employee of a surety and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is the subject of a surety or bail bond agreement with such surety and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is the subject of a surety or bail bond agreement with such surety;or

(13) the offender is a law enforcement officer and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained.

(b) Unlawful sexual relations as defined in:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11)~~or~~, (a)(12) or (a)(13) is a severity level 5, person felony.

(c) (1) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of K.S.A. 2017 Supp. 21-5503, and amendments thereto, the provisions of K.S.A. 2017 Supp. 21-5503, and amendments thereto, shall apply, not this section.

(2) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of ~~subsection (b)(1) of~~ K.S.A. 2017 Supp. 21-5506**(b)(1)**, and amendments thereto, the provisions of ~~subsection (b)(1) of~~ K.S.A. 2017 Supp. 21-5506**(b)(1)**, and amendments thereto, shall apply, not this section.

(3) If an offender violates the provisions of this section by engaging in sodomy which would constitute a violation of ~~subsection (a)(3), (a)(4) or (b) of~~ K.S.A. 2017 Supp. 21-5504**(a)(3), (a)(4) or (b)**, and amendments thereto, the provisions of ~~subsection (a)(3), (a)(4) or (b) of~~ K.S.A. 2017 Supp. 21-5504**(a)(3), (a)(4) or (b)**, and

amendments thereto, shall apply, not this section.

(4) If an offender violates the provisions of this section by engaging in lewd fondling or touching which would constitute a violation of ~~subsection (b)(2) of K.S.A. 2017 Supp. 21-5506(b)(2)~~, and amendments thereto, the provisions of ~~subsection (b)(2) of K.S.A. 2017 Supp. 21-5506(b)(2)~~, and amendments thereto, shall apply, not this section.

(d) As used in this section:

(1) "Correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto;

(2) "inmate" means the same as in K.S.A. 75-5202, and amendments thereto;

(3) "parole officer" means the same as in K.S.A. 75-5202, and amendments thereto;

(4) "postrelease supervision" means the same as in K.S.A. 2017 Supp. 21-6803, and amendments thereto;

(5) "juvenile detention facility" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(6) "juvenile correctional facility" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(7) "sanctions house" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(8) "institution" means the same as in K.S.A. 76-12a01, and amendments thereto;

(9) "teacher" means and includes teachers, coaches, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12;

(10) "community corrections" means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care or treatment, subject to conditions imposed by the court pursuant to the community corrections act, K.S.A. 75-5290, and amendments thereto, and the revised Kansas juvenile justice code, K.S.A. 2017 Supp. 38-2301 et seq., and amendments thereto;

(11) "court services" means the entity appointed by the district court that is responsible for supervising adults and juveniles placed on probation and misdemeanants placed on parole by district courts of this state;

(12) "juvenile community supervision agency" means an entity that receives grants for the purpose of providing direct supervision to juveniles in the custody of the department of corrections; and

(13) "surety" means the same as in K.S.A. 22-2809a, and amendments thereto."

On page 5, following line 17, by inserting:

"Sec. 4. K.S.A. 2017 Supp. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for certification shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; a manager or employee of the horsethief reservoir benefit district pursuant to K.S.A. 2017 Supp. 82a-2212, and amendments thereto; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 2017 Supp. 72-6146, and amendments thereto.

(b) Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant's appointing authority or agency

head shall furnish to the director of police training and to the commission a statement certifying that the applicant has been found to meet the minimum requirements of certification established by this subsection. The commission may rely upon the statement of the appointing authority or agency head as evidence that the applicant meets the minimum requirements for certification to issue a provisional certification. Each applicant for certification shall meet the following minimum requirements:

- (1) Be a United States citizen;
  - (2) have been fingerprinted and a search of local, state and national fingerprint files made to determine whether the applicant has a criminal record;
  - (3) not have been convicted of a crime that would constitute a felony under the laws of this state, a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission;
  - (4) have: (A) graduated from a high school accredited by the Kansas state board of education or the appropriate accrediting agency of another state jurisdiction ~~or have: (B) obtained a high school education from a nonaccredited private secondary school as defined in K.S.A. 2017 Supp. 72-4345, and amendments thereto;~~ or (C) obtained the equivalent of a high school education as defined by rules and regulations of the commission;
  - (5) be of good moral character sufficient to warrant the public trust in the applicant as a police officer or law enforcement officer;
  - (6) have completed an assessment, including psychological testing approved by the commission, to determine that the applicant does not have a mental or personality disorder that would adversely affect the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment;
  - (7) be free of any physical or mental condition which adversely affects the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment; and
  - (8) be at least 21 years of age.
- (c) The commission may deny a provisional or other certification upon a finding that the applicant has engaged in conduct for which a certificate may be revoked, suspended or otherwise disciplined as provided in K.S.A. 74-5616, and amendments thereto. When it appears that grounds for denial of a certification exist under this subsection, after a conditional offer of employment has been made to an applicant seeking appointment as a police officer or law enforcement officer, the applicant's appointing authority or agency head may request an order from the commission to determine whether a provisional certification will be issued to that applicant.
- (d) As used in this section, "conviction" includes rendering of judgment by a military court martial pursuant to the uniform code of military justice, by a court of the United States or by a court of competent jurisdiction in any state, whether or not expunged; and any diversion or deferred judgment agreement entered into for a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations by the commission and any diversion agreement or deferred judgment entered into on or after July 1, 1995, for a felony.";

On page 5, in line 18, by striking "and" and inserting ", 21-5512,"; also in line 18,

after "74-5602" by inserting "and 74-5605";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the second semicolon by inserting "crime of unlawful sexual relations;"; in line 3, by striking the first "and" and inserting ", 21-5512,"; also in line 3, after "74-5602" by inserting "and 74-5605";

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

RICHARD WILBORN

JULIE LYNN

DAVID HALEY

*Conferees on part of Senate*

BLAINE FINCH

BRAD RALPH

JOHN CARMICHAEL

*Conferees on part of House*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **HB 2523**.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2539** 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, in line 5, before "K.S.A" by inserting "On and after January 1, 2019,"; in line 17, by striking "30" and inserting "25"; also in line 17, by striking all after "older"; in line 18, by striking "candidate" and inserting "by the deadline for filing"; also in line 18, after "office" by inserting "as provided in K.S.A. 25-205, and amendments thereto"; following line 20, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid Kansas driver's license number, nondriver's identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

(1) The voter is unable or refuses to provide current and valid identification; or

(2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter's name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records, except that verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in both even-

numbered and odd-numbered years, between April 1 of such year and the Tuesday of the week preceding such primary election.

(2) For the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the Tuesday of the week preceding such general election.

(3) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(4) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the Tuesday of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the final date for mailing of advance voting ballots shall be one week before such election.

(5) For any special election of officers, at such time as is specified by the secretary of state.

The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness ~~which that~~ has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information ~~which that~~ establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall



remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year, the county election officer may mail a notice to such voter. The notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.

Sec. 3. K.S.A. 2017 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) Any voter who has an illness or physical disability or who is not proficient in reading the English language ~~that and~~ is unable to apply for or mark or transmit an advance voting ballot, or any voter who has a disability preventing the voter from signing an application or the form on the ballot envelope, may request assistance by a person who has signed a statement required by subsection (d) in applying for or marking an advance voting ballot, or in signing an application or the form on the ballot envelope if the voter has a disability preventing the voter from signing.

(c) Any voted ballot may be transmitted to the county election officer by the voter or by another person designated in writing by the voter, except if the voter has a disability preventing the voter from writing and signing a statement, the written and signed statement required by subsection (d) shall be sufficient. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(d) The county election officer shall allow a person to assist a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an application or advance voting ballot, or to sign for a voter who has a disability preventing the voter from signing an application or advance voting ballot form, provided a written statement is signed by the person who renders assistance to the voter who has an illness or physical disability or who is not proficient in reading the English language and such statement is submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the voter who has an illness or physical disability or who is not proficient in reading the English language and that the person providing assistance has completed the application ~~or,~~ marked the ballot, or signed the application or ballot form as instructed by the voter.

(e) Any person assisting a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an advance voting ballot, or in signing an application or advance voting ballot form for a voter who has a disability preventing the voter from signing the application or advance voting ballot form, who knowingly fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9, nonperson felony.

Sec. 4. K.S.A. 2017 Supp. 25-1128 is hereby amended to read as follows: 25-1128.

(a) No voter shall knowingly mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall knowingly interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) Except as otherwise provided by law, no person other than the voter, shall knowingly mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(d) Except as otherwise provided by law, no person shall knowingly sign an application for an advance voting ballot for another person. This provision shall not apply if a voter has a disability preventing the voter from signing an application or if an immediate family member signs an application on behalf of another immediate family member with proper authorization being given.

(e) No person, unless authorized by K.S.A. 25-1122 ~~or K.S.A.~~ 25-1124, and amendments thereto, shall knowingly intercept, interfere with, or delay the transmission

of advance voting ballots from the county election officer to the voter.

(f) No person shall knowingly and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot or set of advance voting ballots.

(g) A voter may return such voter's advance voting ballot to the county election officer by personal delivery or by mail. Upon written designation by the voter, a person other than the voter may return the advance voting ballot by personal delivery or mail, except that a written designation shall not be required from a voter who has a disability preventing the voter from writing or signing a written designation. Any such person designated by the voter shall sign a statement that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter.

(h) Violation of any provision of this section is a severity level 9, nonperson felony.

Sec. 5. K.S.A. 25-1121 is hereby amended to read as follows: 25-1121. ~~It shall be the duty of (a)~~ The secretary of state shall prescribe the general forms of advance voting ballots to be used in all primary and general elections and the form of the printed instructions to voters containing a statement of all the requirements of this act, to enable voters to comply with such the requirements of this act. Such The prescribed forms shall be transmitted to the county election officers 35 days before each primary and general election.

(b) The secretary of state shall prescribe the general format of advance voting ballot envelopes. The envelopes shall include signature blocks for the advance voter; a signature block for the person, if any, assisting the advance voter; and a signature block for a person, if any, who signs the advance voting ballot envelope on behalf of the advance voter in situations when the advance voter is physically unable to sign the envelope.

(c) The advance ballot envelope shall contain the following statement after the signature block provided for the person who signs the advance ballot envelope on behalf of a person physically unable to sign such envelope:

"My signature constitutes an affidavit that the person for whom I signed the envelope is a person who is physically unable to sign such envelope. By signing this envelope, I swear this information is true and correct, and that signing an advance ballot envelope under false pretenses shall constitute the crime of perjury."

Sec. 6. K.S.A. 2017 Supp. 21-5903 is hereby amended to read as follows: 21-5903.

(a) Perjury is intentionally and falsely:

(1) Swearing, testifying, affirming, declaring or subscribing to any material fact upon any oath or affirmation legally administered in any cause, matter or proceeding before any court, tribunal, public body, notary public or other officer authorized to administer oaths; ~~or~~

(2) subscribing as true and correct under penalty of perjury any material matter in any declaration, verification, certificate or statement as permitted by K.S.A. 53-601, and amendments thereto or

(3) subscribing as true and correct under the penalty of perjury the affidavit as provided in K.S.A. 25-1121(c), and amendments thereto.

(b) Perjury is a:

- (1) Severity level 9, nonperson felony, except as provided in subsection (b)(2); and
- (2) severity level 7, nonperson felony if the false statement is made upon the trial of

a felony charge.

Nov Sec. 7. (a) After an election and prior to the meeting of the county board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit or tally of each vote cast, regardless of the method of voting, in 1% of all precincts, with a minimum of one precinct located within the county. The precinct or precincts shall be randomly selected and the selection shall take place after the election.

(b) (1) The audit shall be performed manually and shall review all paper ballots selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer will determine the members of the sworn election board who will conduct the audit.

(2) The audit will review contested races as follows:

(A) In presidential election years:

- (i) One federal race;
- (ii) one state legislative race; and
- (iii) one county race.

(B) In even numbered non-presidential election years:

- (i) One federal race;
- (ii) one statewide race;
- (iii) one state legislative race; and
- (iv) one county race.

(C) In odd-numbered election years, two local races will be randomly selected and the selection shall take place after the election.

(c) At least five days prior to the audit, notice of the time and location of the audit shall be provided to the public on the official county website. The audit shall be conducted in a public setting. Any candidate or entity who is authorized to appoint a poll agent may appoint a poll agent for the audit.

(d) The results of the audit shall be compared to the unofficial election night returns and a report shall be submitted to the county election office and to the secretary of state's office prior to the meeting of the county board of canvassers. If a discrepancy is reported between the audit and the unofficial returns and cannot be resolved, the county election officer or the secretary of state may require audits of additional precincts. Once the audit has been completed, the results of the audit shall be used by the county board of canvassers when certifying the official election results.

(e) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precincts and offices involved in the audit.

(f) The provisions of this section shall apply to all counties for elections that take place after January 1, 2019.

Sec. 8. K.S.A. 2017 Supp. 25-3104 is hereby amended to read as follows: 25-3104. The original canvass of every election shall be performed by the election boards at the voting places. The county election officer shall present the original returns, together with the ballots, books and any other records of the election, for the purpose of canvass, to the county board of canvassers at any time between 8 a.m. and 10 a.m. on the Monday next following any election held on a Tuesday, except that the county election officer may move the canvass to the second Thursday following the election if notice is published prior to the canvass in a newspaper with general circulation in the county any

business day not later than 13 days following any election. Notice of the time and place of the canvass shall be published in a newspaper of general circulation in the county prior to the canvass. For elections not held on a Tuesday, the canvass by the county board of canvassers shall be held on a day and hour designated by it, and not later than the ~~fifth~~ 13<sup>th</sup> day following the day of such election.

Sec. 9. K.S.A. 2017 Supp. 25-4403 is hereby amended to read as follows: 25-4403. (a) The board of county commissioners and the county election officer of any county may provide an electronic or electromechanical voting system to be used at voting places, or for advance voting in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

(b) The board of county commissioners of any county in which the board of county commissioners and county election officer have determined that an electronic or electromechanical voting system shall be used may issue bonds to finance and pay for purchase, lease or rental of such a system.

(c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any electronic or electromechanical system herein authorized and approved for use in the state and may use such a system in all or any part of the voting areas within the county or in combination with an optical scanning voting system or with regular paper ballots. Whenever the secretary of state rescinds approval of any voting system, the board of county commissioners and the county election officer shall abandon ~~such the~~ system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, ~~such the~~ abandonment shall be permanent.

(d) On and after the effective date of this act, no board of county commissioners in any county may purchase, lease or rent any direct recording electronic system, as defined in K.S.A. 25-4401(d), and amendments thereto. On and after the effective date of this act, no board of county commissioners in any county may purchase, lease or rent any electronic or electromechanical voting system, unless such system:

(1) Provides a paper record of each vote cast, produced at the time the vote is cast; and

(2) has the ability to be tested both before an election and prior to the date of canvass. Such test shall include the ability to match the paper record of the machine to the vote total contained in the machine.

Sec. 10. K.S.A. 2017 Supp. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto;

(b) shall permit a voter to vote for any independent candidate for any office;

(c) shall provide for voting on constitutional amendments or other questions submitted;

(d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates for whom the voter is qualified to vote according to articles 2 and 33 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(e) shall afford the voter an opportunity to vote for any or all candidates for an

office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office;

(f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one action;

(g) shall provide for "write-in" votes;

(h) shall provide for voting in absolute secrecy, except as to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language;

(i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast;

(j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; ~~and~~

(k) shall provide a paper record of each vote cast, produced at the time the vote is cast;

(l) shall have the ability to be tested both before an election and prior to the date of canvass. The test shall include the ability to match the paper records of such machines to the vote totals contained in the machines; and

(m) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

Sec. 11. K.S.A. 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122, 25-1124, 25-1128, 25-3104, 25-4403 and 25-4406 are hereby repealed.;

Also on page 1, in line 21, before "K.S.A" by inserting "On and after January 1, 2019,"; in line 22, by striking "January"; in line 23, by striking "1, 2019 and,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "25-101a" by inserting "and 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122, 25-1124, 25-1128, 25-3104, 25-4403 and 25-4406"; also in line 2, by striking "section" and inserting "sections";

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

ELAINE BOWERS

STEVE FITZGERALD

OLETHA FAUST-GOUDEAU

*Conferees on part of Senate*

KEITH ESAU

BLAKE CARPENTER

*Conferees on part of House*

Senator Fitzgerald moved the Senate adopt the Conference Committee Report on **HB 2539**.

On roll call, the vote was: Yeas 32; Nays 4; Present and Passing 4; Absent or Not Voting 0.

Yeas: Alley, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Givens, Goddard, Hardy, Hawk, Hensley, Hilderbrand, Kelly, Kerschen, Longbine, Lynn, Masterson, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, Skubal, Suellentrop, Taylor, Wagle, Wilborn.

Nays: Baumgardner, McGinn, V. Schmidt, Tyson.  
 Present and Passing: Francisco, Haley, Holland, Sykes.  
 The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2571** 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 12, by striking all in lines 26 through 43;

By striking all on page 13;

On page 14, by striking all in lines 1 through 33;

Also, on page 14, following line 33, by inserting:

"New Section 1. As used in sections 1 through 31, and amendments thereto:

(a) "Arbitration organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitration proceeding or is involved in the appointment of an arbitrator;

(b) "arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate;

(c) "court" means a court of competent jurisdiction in this state;

(d) "knowledge" means actual knowledge;

(e) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation or any other legal or commercial entity; and

(f) "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

New Sec. 2. (a) Except as otherwise provided in sections 1 through 31, and amendments thereto, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(b) A person has notice if the person has knowledge of the notice or has received notice.

(c) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

New Sec. 3. (a) Sections 1 through 31, and amendments thereto, govern an agreement to arbitrate made on or after July 1, 2018.

(b) Sections 1 through 31, and amendments thereto, govern an agreement to arbitrate made before July 1, 2018, if all parties to the agreement or to the arbitration proceeding so agree in the record.

New Sec. 4. (a) Except as otherwise provided in subsections (b) and (c), a party to an agreement to arbitrate or to an arbitration proceeding may waive or the parties may vary the effect of, the requirements of sections 1 through 31, and amendments thereto, to the extent permitted by law.

(b) Before a controversy arises that is subject to an agreement to arbitrate, a party

to the agreement may not:

(1) Waive or agree to vary the effect of the requirements of sections 5(a), 6(a), 8, 17(a) or (b), 26 or 28, and amendments thereto;

(2) agree to unreasonably restrict the right under section 9, and amendments thereto, to notice of the initiation of an arbitration proceeding;

(3) agree to unreasonably restrict the right under section 12, and amendments thereto, to disclosure of any facts by a neutral arbitrator; or

(4) waive the right under section 16, and amendments thereto, of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under sections 1 through 31, and amendments thereto, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(c) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 3, 7, 14, 18, 20(d) or (e), 22, 23, 24, 25(a) or (b), 29, 30 or 31, and amendments thereto.

New Sec. 5. (a) Except as otherwise provided in section 28, and amendments thereto, an application for judicial relief under sections 1 through 31, and amendments thereto, must be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.

(b) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this act must be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by law or rule of court for serving motions in pending cases.

New Sec. 6. (a) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable, except upon a ground that exists at law or in equity for the revocation of a contract.

(b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue, pending final resolution of the issue by the court, unless the court otherwise orders.

New Sec. 7. (a) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate, pursuant to the agreement:

(1) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(2) if the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate, unless it finds that there is no enforceable agreement to arbitrate.

(b) On motion of a person alleging that an arbitration proceeding has been initiated or threatened, but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.



(c) If the court finds that there is no enforceable agreement, it may not, pursuant to subsections (a) or (b), order the parties to arbitrate.

(d) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(e) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise, a motion under this section may be made in any court as provided in section 27, and amendments thereto.

(f) If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(g) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

New Sec. 8. (a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) After an arbitrator is appointed and is authorized and able to act:

(1) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(2) a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(c) A party does not waive a right of arbitration by making a motion under subsection (a) or (b).

New Sec. 9. (a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(b) Unless a person objects for lack or insufficiency of notice under section 15(c), and amendments thereto, not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack of or insufficiency of notice.

New Sec. 10. (a) Except as otherwise provided in subsection (c), upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(1) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(2) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

New Sec. 11. (a) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

(b) An individual who has a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

New Sec. 12. (a) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) A financial or personal interest in the outcome of the arbitration proceeding; and

(2) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness or other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by subsection (a) or (b) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under section 23(a)(2), and amendments thereto, for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b), upon timely objection by a party, the court under section 23(a)(2), and amendments thereto, may vacate the award.

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality under section 23(a)(2), and amendments thereto.

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 23(a)(2), and amendments

thereto.

New Sec. 13. If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under section 15(c), and amendments thereto.

New Sec. 14. (a) An arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) The immunity afforded by this section supplements any immunity under other law.

(c) The failure of an arbitrator to make a disclosure required by section 12, and amendments thereto, does not cause any loss of immunity under this section.

(d) In a judicial, administrative or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(1) To the extent necessary to determine the claim of an arbitrator, arbitration organization or representative of the arbitration organization against a party to the arbitration proceeding; or

(2) to a hearing on a motion to vacate an award under section 23(a)(1) or (2), and amendments thereto, if the movant establishes prima facie that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator, arbitration organization or representative of an arbitration organization arising from the services of an arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (d), and the court decides that the arbitrator, arbitration organization or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization or representative reasonable attorney fees and other reasonable expenses of litigation.

New Sec. 15. (a) An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

(b) An arbitrator may decide a request for summary disposition of a claim or particular issue:

(1) If all interested parties agree; or

(2) upon request of one party to the arbitration proceeding, if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause

shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced, although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(d) At a hearing under subsection (c), a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(e) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with section 11, and amendments thereto, to continue the proceeding and to resolve the controversy.

New Sec. 16. A party to an arbitration proceeding may be represented by a lawyer.

New Sec. 17. (a) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(b) In order to make the proceedings fair, expeditious and most cost effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious and cost effective.

(d) If an arbitrator permits discovery under subsection (c), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could, if the controversy were the subject of a civil action in this state.

(e) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets and other information protected from disclosure to the extent a court could, if the controversy were the subject of a civil action in this state.

(f) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(g) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court as to make the arbitration proceeding fair, expeditious and cost effective. A subpoena or discovery-related order issued by an

arbitrator in another state must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitration, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

New Sec. 18. If an arbitrator makes a pre-award ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 19, and amendments thereto. A prevailing party may make a motion to the court for an expedited order to confirm the award under section 22, and amendments thereto, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award, unless the court vacates, modifies or corrects the award under section 23 or 24, and amendments thereto.

New Sec. 19. (a) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(b) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

New Sec. 20. (a) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

- (1) Upon a ground stated in section 24(a)(1) or (3), and amendments thereto;
- (2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (3) to clarify the award.

(b) A motion under subsection (a) must be made and notice given to all parties within 20 days after the movant receives notice of the award.

(c) A party to the arbitration proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

(d) If a motion to the court is pending under section 22, 23 or 24, and amendments thereto, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

- (1) Upon a ground stated in section 24(a)(1) or (3), and amendments thereto;
- (2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceedings; or
- (3) to clarify the award.

(e) An award modified or corrected pursuant to this section is subject to sections 19(a), 22, 23 and 24, and amendments thereto.

New Sec. 21. (a) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(c) As to all remedies other than those authorized by subsections (a) and (b), an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 22, and amendments thereto, or for vacating an award under section 23, and amendments thereto.

(d) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under subsection (a), the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of punitive damages or other exemplary relief.

New Sec. 22. After a party to an arbitration proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award, at which time the court shall issue a confirming order, unless the award is modified or corrected pursuant to section 20 or 24, and amendments thereto, or is vacated pursuant to section 23, and amendments thereto.

New Sec. 23. (a) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) there was:
  - (A) Evident partiality by an arbitrator appointed as a neutral arbitrator;
  - (B) corruption by an arbitrator; or
  - (C) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;
- (3) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 15, and amendments thereto, so as to prejudice substantially the rights of a party to the arbitration proceeding;
- (4) an arbitrator exceeded the arbitrator's powers;
- (5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 15(c), and amendments thereto, not later than the beginning of the arbitration hearing; or
- (6) the arbitration was conducted without proper notice of the initiation of an arbitration as required in section 9, and amendments thereto, so as to prejudice substantially the rights of a party to the arbitration proceeding.

(b) A motion under this section must be filed within 90 days after the movant receives notice of the award pursuant to section 19, and amendments thereto, or within 90 days after the movant receives notice of the award pursuant to section 20, and amendments thereto, unless the movant alleges that the award was procured by corruption, fraud or other undue means, in which case, the motion must be made within 90 days after the ground is known or, by the exercise of reasonable care, would have been known by the movant.

(c) If the court vacates an award on a ground other than that set forth in subsection (a)(5), it may order a rehearing. If the award is vacated on a ground stated in subsection (a)(1) or (2), the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in subsection (a)(3), (4) or (6), the rehearing must be before the arbitrator

who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in section 19(b), and amendments thereto, for an award.

(d) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

New Sec. 24. (a) Upon motion made within 90 days after the movant receives notice of the award pursuant to section 19, and amendments thereto, or within 90 days after the movant receives notice of a modified or corrected award pursuant to section 20, and amendments thereto, the court shall modify or correct the award if:

(1) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(2) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) If a motion made under subsection (a) is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(c) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

New Sec. 25. (a) Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

(b) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(c) On application of a prevailing party to a contested judicial proceeding under section 22, 23 or 24, and amendments thereto, the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award.

New Sec. 26. (a) A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(b) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under sections 1 through 31, and amendments thereto.

New Sec. 27. A motion pursuant to section 5, and amendments thereto, must be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

New Sec. 28. (a) An appeal may be taken from:

(1) An order denying a motion to compel arbitration;

(2) an order granting a motion to stay arbitration;  
 (3) an order confirming or denying confirmation of an award;  
 (4) an order modifying or correcting an award;  
 (5) an order vacating an award without directing a rehearing; or  
 (6) a final judgment entered pursuant to sections 1 through 31, and amendments thereto.

(b) An appeal under this section must be taken as from an order or judgment in a civil action.

New Sec. 29. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

New Sec. 30. The provisions of sections 1 through 31, and amendments thereto, governing the legal effect, validity and enforceability of electronic records or electronic signatures and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the electronic signatures in global and national commerce act.

New Sec. 31. Sections 1 through 31, and amendments thereto, do not affect an action or proceeding commenced or right accrued before sections 1 through 31, and amendments thereto, take effect. Subject to section 3, and amendments thereto, an arbitration agreement made before the effective date of sections 1 through 31, and amendments thereto, is governed by article 4 of chapter 5 of the Kansas Statutes Annotated, prior to its repeal.

New Sec. 32. (a) (1) Except as provided in subsection (a)(2), a provision in a trust instrument requiring the mediation or arbitration of disputes between or among beneficiaries, a fiduciary, a person granted nonfiduciary powers under the trust instrument, or any combination thereof, is enforceable.

(2) A provision in a trust instrument requiring the mediation or arbitration of a dispute relating to the validity of a trust is not enforceable, unless all interested persons to the dispute consent to mediation or arbitration of such dispute.

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

Sec. 33. K.S.A. 50-6,100 is hereby amended to read as follows: 50-6,100. (a) Each consumer shall have the option of submitting any dispute arising under this act to arbitration. Upon application of the consumer all ~~manufactures~~ manufacturers shall submit to such arbitration.

(b) Such arbitration shall be conducted in accordance with the provisions of the uniform arbitration act (~~K.S.A. 5-401 et seq.~~ sections 1 through 31, and amendments thereto). Any agreement to arbitrate entered into under this section shall ensure the personal objectivity of the arbitrators and the right of each party to present its case, to be in attendance during any presentation made by the other party and to rebut or refute such presentation.

Sec. 34. K.S.A. 66-1712 is hereby amended to read as follows: 66-1712. (a) When any person desires to carry out temporarily any function or activity in closer proximity to any high voltage overhead line than is permitted by this act, the person or persons responsible for the function or activity shall notify the public utility which owns or operates the high voltage overhead line of the function or activity and shall make appropriate arrangements with the public utility for temporary barriers, temporary deenergization and grounding of the conductors, temporary rerouting of electric current



or temporary relocating of the conductors before proceeding with any function or activity which would impair the clearances required by this act.

(b) A person or persons requesting a public utility to provide temporary clearances or other safety precautions shall be responsible for payment of only those costs incurred by such utility in the temporary rerouting of electric current or the temporary relocating of the conductors. Upon request, a public utility shall provide a written costs estimate for the work needed to provide temporary rerouting of electric current or temporary relocating of the conductors. Unless otherwise agreed to, or unless circumstances require a longer period of time before work commences in order to assure continuity of service to electric customers, a public utility shall commence work on such temporary rerouting of electric current, temporary relocating of the conductors, temporary barriers or temporary deenergization and grounding of the conductors as may be appropriate, within seven working days after such notification has been made in accordance with ~~subsection (a) of K.S.A. 66-1712(a), and amendments thereto.~~

(c) If a person requesting a public utility to provide temporary rerouting of electric current or the temporary relocating of the conductors disagrees with the reasonableness of the written costs estimate or the description of the work to be performed, the following options are available to such person:

(1) Such person under protest may pay the utility for the work in accordance with the written cost estimate, but shall be entitled to seek recovery of all or any part of the money so paid in an arbitration proceeding as hereinafter provided; or

(2) prior to directing the work to be performed, the person or persons may submit to binding arbitration, as hereinafter provided, to resolve the issue of the reasonableness of the written cost estimate or the description or extent of the work to be performed by the public utility under such estimate.

(d) Disputes submitted to binding arbitration under this section shall be submitted in accordance with the procedures set forth in ~~K.S.A. 5-401 et seq.~~ sections 1 through 31, and amendments thereto. The decision of the arbitrator or arbitrators as to the reasonableness of the costs or the necessity of the work to be performed shall be final and binding upon the parties.

Sec. 35. K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-406, 5-407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-416, 5-417, 5-418, 5-419, 5-420, 5-421, 5-422, 50-6, 100 and 66-1712 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2; in line 3, by striking all before the semicolon and inserting "arbitration; enacting the uniform arbitration act of 2000; relating to mediation or arbitration of disputes concerning trust instruments"; in line 4, by striking all before "and"; and inserting "50-6, 100 and 66-1712"; in line 5, by striking "section" and inserting "sections; also repealing K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-406, 5-407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-416, 5-417, 5-418, 5-419, 5-420, 5-421 and 5-422";

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

RICHARD WILBORN  
MOLLY BAUMGARDNER  
DAVID HALEY

*Conferees on part of Senate*

BLAINE FINCH  
BRAD RALPH  
JOHN CARMICHAEL

*Conferees on part of House*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **HB 2571**.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The Conference Committee Report was adopted.

#### **ENROLLED BILLS**

**H Sub SB 56; Sub SB 272; H Sub SB 307; SB 331, SB 419** reported correctly enrolled, properly signed and presented to the governor on May 1, 2018.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Wednesday, May 2, 2018.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

