CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to HB 2290 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 4, by inserting:

"New Section 1. (a) There is hereby established the Kansas closed case task force. The task force shall be composed of 15 voting members, as follows:

(1) The chairperson of the standing senate committee on judiciary;

(2) the ranking minority member of the standing senate committee on judiciary;

(3) the chairperson of the standing house committee on judiciary;

(4) the ranking minority member of the standing house committee on judiciary;

(5) the governor or the governor's designee;

(6) the attorney general or the attorney general's designee;

(7) the director of the Kansas bureau of investigation or the director's designee;

(8) the state combined DNA index system (CODIS) administrator as designated by the director of the Kansas bureau of investigation forensic science laboratory;

(9) a sheriff as designated by the Kansas sheriff's association;

(10) a chief of police as designated by the Kansas association of chiefs of police;

(11) a prosecutor as designated by the Kansas county and district attorneys association;

(12) the executive director of the state board of indigents' defense services or the
executive director's designee;

(13) the president of the Kansas bar association or the president's designee;

(14) the director of victim services of the department of corrections or the director's designee; and

(15) one member designated by the governor who represents an organization that litigates claims of innocence.

(b) (1) Members shall be appointed to the task force on or before September 1, 2019. The initial meeting of the task force shall be convened on or before October 1, 2019.

(2) The chairperson of the standing senate committee on judiciary and the chairperson of the standing house committee on judiciary shall serve as co-chairs of the task force.

(3) The task force shall meet in an open meeting at any time and at any place within the state of Kansas upon the call of either co-chairperson of the task force. A majority of the voting members of the task force constitutes a quorum. Any action by the task force shall be by motion adopted by a majority of the voting members present when there is a quorum.

(c) The task force, in consultation with practitioners and experts, shall develop a plan to ensure uniform statewide policies and procedures that address, at a minimum:

(1) Timely receipt of the data relating to hits to the combined DNA index system (CODIS) from the forensic laboratory;

(2) directly connecting the data relating to hits to the combined DNA index system (CODIS) to the relevant case file;

(3) proper policies and procedures to ensure all hits are accounted for and followed up;

(4) procedures to address how the key parties can conduct a reasonable and timely investigation into the significance of the hit; and
(5) sharing the hits in data from both solved and unsolved cases with other key parties, including the relevant prosecutors' offices, the original defense attorney and the last known attorney of record, crime victims and surviving relatives, and a local organization that litigates claims of innocence.

(d) The task force shall complete a plan for implementation of a protocol relating to hits to closed cases by October 1, 2020. The plan shall include a mechanism to ensure uniform compliance at the local law enforcement agency level.

(e) On or before December 1, 2020, the task force shall submit a report containing a plan for uniform implementation of the protocol throughout the state, including articulated benchmarks to facilitate and measure adoption. This report shall be posted on a public website maintained by the Kansas bureau of investigation and presented to the governor, the speaker of the house of representatives and the president of the senate.

(f) Legislative members of the task force attending meetings authorized by the task force shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto. Non-legislative members of the task force may be reimbursed by their appointing authority.

(g) The provisions of this section shall expire on December 30, 2020.

New Sec. 2. (a) There is hereby created the Kansas criminal justice reform commission.

(b) The commission shall:

(1) Analyze the sentencing guidelines grids for drug and nondrug crimes and make recommendations for legislation that would ensure sentences are appropriate;

(2) review the sentences imposed for criminal conduct to determine whether the sentences are proportionate to other sentences imposed for criminal offenses;

(3) analyze diversion programs utilized throughout the state and make
recommendations with respect to expanding diversion options and implementation of a statewide diversion standards;

(4) review the supervision levels and programming available for offenders who serve sentences for felony offenses on community supervision;

(5) study specialty courts and make recommendations for the use of specialty courts throughout the state;

(6) survey the availability of evidence-based programming for offenders provided both in correctional facilities and in the community, and make recommendations for changes in available programming;

(7) study the policies of the department of corrections for placement of offenders within the correctional facility system and make recommendations with respect to specialty facilities, including, but not limited to, geriatric, healthcare and substance abuse facilities;

(8) evaluate existing information management data systems and make recommendations for improvements to data systems that will enhance the ability of criminal justice agencies to evaluate and monitor the efficacy of the criminal justice system at all points in the criminal justice process; and

(9) study other matters, that, as the commission determines, are appropriate and necessary to complete a thorough review of the criminal justice system.

(c) The commission shall be made of the following members:

(1) One member of the Kansas senate appointed by the president of the senate;

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

(3) one member of the Kansas house of representatives appointed by the speaker of the Kansas house of representatives;
(4) one member of the Kansas house of representatives appointed by the minority leader of the Kansas house of representatives;

(5) one member of the judicial branch court services appointed by the chief justice of the supreme court;

(6) one criminal defense attorney or public defender appointed by the governor;

(7) one county or district attorney from an urban area and one county attorney from a rural area appointed by the Kansas county and district attorneys association;

(8) one sheriff and one chief of police appointed by the attorney general;

(9) one professor of law from the university of Kansas school of law and one professor of law from Washburn university school of law, appointed by the deans of such schools;

(10) one drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program appointed by the Kansas sentencing commission;

(11) one district judge appointed by the Kansas district judges association;

(12) one district magistrate judge appointed by the Kansas district magistrate judges association;

(13) one member representative of the faith-based community appointed by the governor;

(14) one member of a criminal justice reform advocacy organization appointed by the legislative coordinating council;

(15) one mental health professional appointed by the Kansas community mental health association;

(16) one member representative of community corrections appointed by the secretary of corrections; and
(17) the attorney general, the secretary of corrections and the executive director of the Kansas sentencing commission, or such persons' designees, shall serve as ex officio, nonvoting members of the commission.

(d) Members of the commission shall be appointed before August 1, 2019. The appointing authorities shall provide notice of such appointments to the office of revisor of statutes and the legislative research department.

(e) The members of the commission shall elect officers from among its members necessary to discharge its duties. The commission shall receive testimony from interested parties at public hearings to be conducted in the various geographic areas of the state.

(f) If approved by the legislative coordinating council, legislative members of the commission attending meetings authorized by the commission shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

(g) The commission shall have the authority to organize and appoint such task forces or subcommittees as may be deemed necessary to discharge such commission's duties, including adding ex officio, nonvoting members to such task forces or subcommittees.

(h) The commission shall work with the Kansas judicial council, the department of corrections, the office of judicial administration and the Kansas sentencing commission and review studies and findings of the Kansas sentencing commission concerning proportionality of sentencing.

(i) The commission shall prepare and submit its interim report to the legislature on or before December 1, 2019. A final report and recommendations shall be submitted to the legislature on or before December 1, 2020.

(j) The staff of the office of revisor of statutes and the legislative research department
shall provide such assistance as may be requested by the commission as authorized by the legislative coordinating council.

(k) The governor shall appoint a facilitator to assist the commission in developing a project plan and who shall assist the commission in carrying out the duties of the commission in an orderly manner. The facilitator shall work in collaboration with the commission chairperson and staff of the office of revisor of statutes and the legislative research department. The facilitator shall not be a member of the commission. The facilitator, in coordination with the office of revisor of statutes and the legislative research department, shall call the first meeting of the commission, which shall take place during August 2019.

New Sec. 3. (a) As used in this section:

(1) "Care" means the provision of treatment, education, training, instruction, supervision or recreation to children, the elderly or individuals with disabilities.

(2) "Provider" means a person who:

(A) Is employed by a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly or individuals with disabilities to whom the qualified entity provides care;

(B) is a volunteer of a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly or individuals with disabilities to whom the qualified entity provides care; or

(C) owns, operates or seeks to own or operate a qualified entity.

(3) "Qualified entity" means a business or organization that provides care to children, the elderly or individuals with disabilities that is private, for profit, not-for-profit or voluntary, except such businesses or organizations that are subject to the provisions of K.S.A. 39-970, 65-
(b) A qualified entity may request the Kansas bureau of investigation to conduct a state and national criminal history record check on any person who will serve as a provider, or is currently a provider with such entity. The qualified entity may request a state and national criminal history record check by submitting the following:

(1) The person's fingerprints; and

(2) a copy of a completed and signed statement furnished by the qualified entity that includes:

(A) A waiver permitting the qualified entity to request and receive a criminal history record check for the purpose of determining the person's qualification and fitness to serve as a provider;

(B) the name, address and date of birth of the person as it appears on a valid identification document;

(C) a disclosure of whether or not the person has ever been convicted of or is the subject of pending charges for a criminal offense and, if convicted, a description of the crime and the result of the conviction; and

(D) a notice to the person that they are entitled to obtain a copy of the criminal history record check to challenge the accuracy and completeness of any information contained in any such report before any final determination is made by the qualified entity.

(c) A qualified entity is authorized to require a person to be fingerprinted and to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The qualified entity shall use the fingerprints
to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdictions or countries. The qualified entity may use the information obtained from the fingerprints and such state and national criminal history record checks in the official determination of the qualifications and fitness of the person to be permitted to serve as a provider.

(d) Local and state law enforcement officers and agencies shall assist the qualified entity in taking and processing a person's fingerprints as authorized by this section.

(e) The Kansas bureau of investigation shall release all records of the person's adult convictions and diversions, and adult convictions and diversions from another state, jurisdiction or country, to the qualified entity to make a final determination of the qualification of such person to serve as a provider.

(f) A qualified entity shall be solely responsible for making any determination that a person's criminal history record shows that such person has been convicted of a crime that bears upon the fitness of such person to serve as a provider. This section does not require the Kansas bureau of investigation to make such a determination on behalf of any qualified entity."

On page 3, following line 38, by inserting:

"Sec. 7. K.S.A. 2018 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner."
(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2019.

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of
persons licensed or their agents or from releasing aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

Sec. 8. K.S.A. 2018 Supp. 40-3407 is hereby amended to read as follows: 40-3407. (a) Except for investment purposes, all payments from the fund shall be upon warrants of the state of Kansas issued pursuant to vouchers approved by the executive director or the executive director's designee, and, with respect to claim payments, accompanied by: (1) A file stamped copy of a final judgment against a healthcare provider or inactive healthcare provider for which the fund is liable; or (2) a file stamped copy of a court approved settlement against a healthcare provider or inactive healthcare provider for which the fund is liable.

(b) For investment purposes amounts shall be paid from the fund upon vouchers approved by the chairperson of the pooled money investment board.

(c)–(d) Payments from the fund for attorney fees, expert witness fees, and other costs related to claims, including invoices, statements and other documentation thereof, shall not be subject to K.S.A. 45-218, and amendments thereto.

2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this section shall be reviewed by the legislature prior to July 1, 2019.

Sec. 9. K.S.A. 2018 Supp. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

1) The public record is of a sensitive or personal nature concerning individuals;
(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify
to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year which meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law that creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law that creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

(1) Is required by federal law;

(2) applies solely to the legislature or to the state court system;

(3) has been reviewed and continued in existence twice by the legislature; or

(4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

(A) What specific records are affected by the exception;

(B) whom does the exception uniquely affect, as opposed to the general public;

(C) what is the identifiable public purpose or goal of the exception;

(D) whether the information contained in the records may be obtained readily by
alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, if the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in

(2) Exceptions contained in the following statutes as certified by the revisor of statutes
to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2015 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-972a, 74-50,217 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2015 and that have been reviewed during the 2016 legislative session are hereby continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2014 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48), 50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06, 77-503a and 82a-2210.
(l) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and that have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-712 and 75-5366.

(n) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).";
On page 4, in line 41, by striking "3" and inserting "6";

On page 7, in line 35, by striking "3" and inserting "6";

On page 8, in line 23, by striking "3" and inserting "6";

On page 10, in line 2, by striking "of a claim" and inserting "in an action, proceeding or investigation"; in line 9, after "Supp." by inserting "9-513c, 40-3407, 45-229 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "public agencies; establishing the Kansas closed case task force; creating the Kansas criminal justice reform commission; relating to the Kansas bureau of investigation; criminal history record checks for entities providing care to children, the elderly or individuals with disabilities; relating to"; in line 7, after the semicolon by inserting "relating to the Kansas open records act; legislative review of exceptions to disclosure of public records;"; in line 10, after "Supp." by inserting "9-513c, 40-3407, 45-229 and";

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

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Conferees on part of Senate

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Conferees on part of House