

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 10, 2016, 2:30 p.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with 39 senators present.
Senator Kerschen was excused.
Invocation by Reverend Cecil Washington, Jr.:

Heavenly Father, in Psalm 33:11, You've revealed that the plans of Your heart transcend time, and Your counsel stands through all generations to provide us with Your wisdom. By acknowledging You as our Lord, You said in verse 12, that we would be a blessed, fortunate, and even an envied nation of people. As we gather today, we ask You to Divinely govern in all our affairs, individually and collectively. We know Lord, that none of us has a corner on all that is right or all that is good and at various times we will get off base. But when the results are tallied in our personal lives and in the lives of those we serve, bless us to see that we were sensitive to Your leading. So, Lord, as we gather today, let the inspiration of Your Holy Spirit influence all that we do. In Jesus name, Amen.

The Pledge of Allegiance was led by Vice President King.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2582**.

Federal and State Affairs: **HB 2549**.

Transportation: **SB 507; HB 2605**.

CHANGE OF REFERENCE

An objection having been made to **SB 484, SB 485** appearing on the **Consent Calendar**, the Vice President directed the bills be removed and placed on the calendar under the heading of **General Orders**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2369, HB 2509, HB 2571**.

Announcing passage of **SB 312**.

Announcing passage of **SB 193**, as amended by **H Sub SB 193**.

The House accedes to the request of the Senate for a conference on **H Sub SB 44** and has appointed Representatives Barker, Macheers and Carmichael as conferees on the

part of the House.

The House accedes to the request of the Senate for a conference on **H Sub SB 128** and has appointed Representatives Barker, Macheers and Carmichael as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 319** and has appointed Representatives Barker, Macheers and Carmichael as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 321** and has appointed Representatives Barker, Macheers and Carmichael as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2369, HB 2509, HB 2571 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1776—

A RESOLUTION recognizing the importance of meningococcal
disease awareness and prevention.

WHEREAS, Meningococcal disease is any infection caused by the bacterium *Neisseria meningitidis*, or meningococcus. Although one in 10 people are carriers of this bacteria with no signs or symptoms of disease, sometimes *Neisseria meningitidis* bacteria can cause illness; and

WHEREAS, Meningococcal disease is spread from person to person via the exchange of the bacteria through respiratory and throat secretion during close or lengthy contact; and

WHEREAS, In the U.S., there are approximately 1,000 to 1,200 cases of meningococcal disease each year; and

WHEREAS, Ten to 15 percent of infected individuals will die, while 11 to 19 percent of those who live will suffer from serious morbidity, including loss of limbs and impacts to the nervous system; and

WHEREAS, Infants under one year of age, as well as young adults between the ages of 16 and 21, are most commonly impacted by this disease; and

WHEREAS, There are different strains or serogroups of *Neisseria meningitidis*, with serogroups B, C and Y accounting for most meningococcal diseases in the U.S.; and

WHEREAS, There have been several recent outbreaks of serogroup B meningococcal disease on college campuses, with some cases resulting in death; and

WHEREAS, Vaccines are available to prevent meningococcal disease, and there are different vaccines that provide coverage against certain specific serogroups of the disease; and

WHEREAS, While there are vaccines that help provide protection against all three serogroups commonly seen in the United States, only the vaccination for serogroups A, C, W and Y is routinely recommended by the Centers for Disease Control and Prevention; and

WHEREAS, The Centers for Disease Control and Prevention's Advisory Committee

on Immunization Practices recommends that decisions to vaccinate adolescents and young adults 16 through 23 years of age against serogroup B meningococcal disease should be made at the individual level with healthcare providers; and

WHEREAS, It is critical that students, parents, educators and healthcare providers understand the dangers of meningitidis B and are aware that a vaccine is available to prevent disease resulting from this serogroup: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the importance of meningococcal disease awareness and prevention. The recent incidence of meningococcal disease has served as a reminder of the critical role vaccinations play in helping prevent this devastating illness; and

Be it further resolved: That we take all reasonable steps to urge all private and public high schools, colleges and universities in Kansas to provide information to all students and parents about meningococcal disease, explaining the different disease serogroups, symptoms, risks and treatment; and

Be it further resolved: That such information should also include a notice of availability, benefits, risks and limitations of all meningococcal vaccines receiving a recommendation from the Advisory Committee on Immunization Practices, including Category A and Category B recommendations, with specific information as to those persons at higher risk for the disease; and

Be it further resolved: That each private and public high school, college and university should recommend that both current and new students receive meningococcal vaccines in accordance with current Advisory Committee on Immunization Practices guidelines; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Schmidt.

On emergency motion of Senator V. Schmidt **SR 1776** was adopted unanimously.

Guests introduced were Danelle Lin Perry, MD, and Regina Weir. The senators honored the guests with a standing ovation.

ORIGINAL MOTION

Senator Wolf moved to override the governor's veto on **SB 250**. The motion was withdrawn.

COMMITTEE OF THE WHOLE

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

On motion of Senator Powell the following report was adopted:

HB 2438 be passed.

SB 379, SB 388, SB 459 be amended by the adoption of the committee amendments, and the bills be passed as amended.

SB 476 be amended by the adoption of the committee amendments, be further amended by motion of Senator Tyson: on page 1, in line 4, by striking "Bourbon" and inserting "any"

and **SB 476** be passed as further amended.

SB 342 be amended by the adoption of the committee amendments, be further amended by motion of Senator Baumgardner: on page 3, in line 10, by striking "except

as provided in subsection (c),"; by striking all in lines 12 through 20 and inserting the following:

"(A) For legitimate research purposes subject to and as allowed by federal and state law, and under the direction of a school district or the state department of education, provided the student information is not used for advertising or to amass a profile on the student for purposes other than educational purposes, or for any other purposes other than educational purposes;

(B) that information described in section 2(e)(2) and (e)(8), and amendments thereto, upon request by a school district or state agency for educational purposes;"

Also on page 3, in line 21, by striking "(D)" and inserting "(C) to law enforcement agencies or to a court of competent jurisdiction";

On page 4, in line 3, by striking all after "(c)"; by striking all in lines 4 through 14; in line 15, by striking "(d)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 5, following line 27, by inserting:

"Sec. 4. (a) A student, or such student's parent or legal guardian, may bring a cause of action against any operator who violates any provision of section 3, and amendments thereto, with respect to such student's student information. Such action may be brought in the district court of the county in which such student resides.

(b) Upon a finding that an operator violated any provision of section 3, and amendments thereto, the court may award appropriate relief, including:

(1) Money damages for all psychological, emotional and physical harm suffered as a result of such violation; and

(2) reasonable attorney fees and costs.";

And by renumbering sections accordingly and **SB 342** be passed as further amended.

The committee report on **SB 428** recommending **Sub SB 428** be adopted, be further amended by motion of Senator LaTurner: on page 1, in line 16, after the period by inserting "The procedures should include:

(1) Use of blind and blinded procedures;

(2) instructions to the witness that the perpetrator may or may not be present;

(3) use of non-suspect fillers who are reasonably similar to the perpetrator and do not make the suspect stand out; and

(4) after an identification is made by the witness, eliciting a confidence statement, in the witness's own words, regarding the level of certainty in the selection."

and **Sub SB 428** be passed as amended.

FINAL ACTION ON CONSENT CALENDAR

SB 443 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 443, AN ACT declaring the cage elevator in the Kansas state capitol building as the official cage elevator of the state of Kansas.

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

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, King,

Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Kerschen.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority, and **SB 342**, **SB 379**, **SB 388**; **Sub SB 428**; **SB 459**, **SB 476**; **HB 2438** were advanced to Final Action and roll call.

SB 342, AN ACT concerning schools; creating the student online personal protection act.

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

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

Absent or Not Voting: Kerschen.

The bill passed, as amended.

SB 379, AN ACT concerning alcoholic beverages; relating to farm wineries; amending K.S.A. 2015 Supp. 41-311 and repealing the existing section.

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

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

Absent or Not Voting: Kerschen.

The bill passed, as amended.

SB 388, AN ACT concerning postsecondary education; relating to the awarding of credit hours for degree completion.

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

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

Absent or Not Voting: Kerschen.

The bill passed, as amended.

Sub SB 428, AN ACT concerning crimes, punishment and criminal procedure; relating to eyewitness identification.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Pilcher-Cook.

Absent or Not Voting: Kerschen.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

Mr. Vice President: I vote "Aye" on **Sub SB 428** as amended by the Committee of the Whole; an act relating to eyewitness identification. This is a good start towards insuring consistent identification standards when a witness is attempting to describe who or what they have seen to law enforcement and will result in more accurate suspect and/or evidence apprehension and utilization. These standards have been recommended and, in many cases implemented in other States. The Judicial Council and Kansas Law Enforcement have studied this crucial issue and worked to assist in the development and training of easily implementable standards. According to the Innocence Project, almost 75% of wrongful convictions are due to so-called "eyewitnesses" giving inaccurate description(s). **Sub SB 428** is a step towards reducing misidentifications and, subsequently, wrongful convictions. What a novel idea, Mr. Vice President! So novel, I wish that I had thought of it first and introduced it. (Oh, wait...actually I did! **SB 428** as originally introduced in 2016 and various bills over the last 6 years in this Kansas Senate.) Regardless of the unnecessary legislative delay, I am genuinely glad to see common sense legislation finally proceed that will improve public participation and accuracy in identification.—DAVID HALEY

SB 459, AN ACT concerning the state fire marshal; relating to certain license fees; amending K.S.A. 2015 Supp. 31-133a, 31-503 and 31-504 and repealing the existing sections.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Tyson.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

SB 476, AN ACT concerning Bourbon county; dealing with audits of fire districts.

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

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

Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Kerschen.

The bill passed, as amended.

HB 2438, AN ACT concerning fire districts; adding territory of adjoining cities; amending K.S.A. 19-3605 and 19-3623 and repealing the existing sections.

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

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

Absent or Not Voting: Kerschen.

The bill passed.

ORIGINAL MOTION

On motion of Senator Terry Bruce **SB 234**, **SB 320**, **SB 378** were stricken from the calendar.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2512**, as amended by House Committee of the Whole, be passed.

Also, **SB 469** be amended on page 1, in line 12, by striking "annual" and inserting "triennial"; in line 14, by striking "occur no earlier than August 1" and inserting "be held on or after January 1"; in line 15, by striking "December 1 each year" and inserting "April 1";

On page 2, in line 2, by striking "12" and inserting "36";

On page 3, in line 20, by striking "12" and inserting "36"; in line 24, by striking "12" and inserting "36";

On page 4, in line 34, by striking "12" and inserting "36"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 479** be passed.

Also, **SB 462** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 462," as follows:

"Substitute for SENATE BILL NO. 462
By Committee on Federal and State Affairs

"AN ACT concerning civil procedure; relating to the protection from stalking act; amending K.S.A. 60-31a02 and repealing the existing section.";

And the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **HB 2442**, **HB 2516**, **HB 2536**, **HB 2567**, be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Committee on **Financial Institutions and Insurance** recommends **HB 2454** be passed.

Also, **HB 2446**, as amended by House Committee, be amended on page 3, by striking all in lines 18 through 21; and the bill be passed as amended.

HB 2485 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Natural Resources** recommends **HB 2490** be amended on page 2, in line 36, by striking "or any"; in line 37, by striking all before "which"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 457** be amended on page 6, in line 33, by striking "and"; in line 34, after "environment" by inserting "; one person appointed by the president of the senate who is affiliated with an organization representing and advocating the interests of retired persons in Kansas; and one person appointed by the speaker of the house of representatives who is a volunteer with the office of the state long-term care ombudsman established by the long-term care ombudsman act"; in line 43, by striking "legislature" and inserting "senate committees on public health and welfare and ways and means, the house committees on appropriations and health and human services and the Robert G. (Bob) Bethell joint committee on home and community based services and KanCare oversight";

On page 1, in the title, in line 2, after the second semicolon by inserting "quality care improvement panel membership; reporting requirements;"; and the bill be passed as amended.

Also, **SB 474** be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 2015 Supp. 12-17,162 is hereby amended to read as follows: 12-17,162. As used in ~~this~~ the **STAR bond financing** act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) "Commence work" means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(c) "De minimus" means an amount less than 15% of the land area within a STAR bond project district.

(d) "Developer" means any person, firm, corporation, partnership or limited liability company other than a city and other than an agency, political subdivision or instrumentality of the state.

(e) "Economic impact study" means a study to project the financial benefit of the project to the local, regional and state economies.

(f) "Eligible area" means a historic theater, major tourism area, major motorsports complex, auto race track facility, river walk canal facility, major multi-sport athletic complex, or a major commercial entertainment and tourism area as determined by the secretary.

(g) "Feasibility study" means a feasibility study as defined in ~~subsection (b) of~~ K.S.A. 2015 Supp. 12-17,166**(b)**, and amendments thereto.

(h) "Historic theater" means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(i) "Historic theater sales tax increment" means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

(j) "Major commercial entertainment and tourism area" means an area that may include, but not be limited to, a major multi-sport athletic complex.

(k) "Major motorsports complex" means a complex in Shawnee county that is utilized for the hosting of competitions involving motor vehicles, including, but not limited to, automobiles, motorcycles or other self-propelled vehicles other than a motorized bicycle or motorized wheelchair. Such project may include racetracks, all facilities directly related and necessary to the operation of a motorsports complex, including, but not limited to, parking lots, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.

(l) "Major tourism area" means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.

(m) "Major multi-sport athletic complex" means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments including grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(n) "Market study" means a study to determine the ability of the project to gain market share locally, regionally and nationally and the ability of the project to gain sufficient market share to:

- (1) Remain profitable past the term of repayment; and
- (2) maintain status as a significant factor for travel decisions.

(o) "Market impact study" means a study to measure the impact of the proposed project on similar businesses in the project's market area.

(p) "Museum facility" means a separate newly-constructed museum building and facilities directly related and necessary to the operation thereof, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility. The museum facility shall be owned by the state, a city, county, other political subdivision of the state or a non-profit corporation, shall be managed by the state, a city, county, other political subdivision of the state or a non-profit corporation and may not be leased to any developer and shall not be located within any retail or commercial building.

(q) "Project" means a STAR bond project.

(r) "Project costs" means those costs necessary to implement a STAR bond project plan, including costs incurred for:

- (1) Acquisition of real property within the STAR bond project area;
- (2) payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 2015 Supp. 12-17,173, and amendments thereto;
- (3) site preparation including utility relocations;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities and multilevel parking structures devoted to parking only;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities;
- (15) auto race track facility;
- (16) major multi-sport athletic complex;
- (17) museum facility;
- (18) major motorsports complex;
- (19) related expenses to redevelop and finance the project, except that for a STAR bond project financed with special obligation bonds payable from the revenues described in ~~subsection (a)(1)~~ of K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto, such expenses shall require prior approval by the secretary of commerce; and
- (20) except as specified in subsections (1) through (19) above, project costs shall not include:
 - (A) Costs incurred in connection with the construction of buildings or other structures;
 - (B) fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developers or any other businesses considering locating in or located in a STAR bond project district;
 - (C) salaries for local government employees;
 - (D) moving expenses for employees of the businesses locating within the STAR bond project district;
 - (E) property taxes for businesses that locate in the STAR bond project district;
 - (F) lobbying costs;
 - (G) any bond origination fee charged by the city or county;
 - (H) any personal property as defined in K.S.A. 79-102, and amendments thereto; and
 - (I) travel, entertainment and hospitality.

(s) "Projected market area" means any area within the state in which the project is projected to have a substantial fiscal or market impact upon businesses in such area.

(t) "River walk canal facilities" means a canal and related water features which

flow through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to, pedestrian walkways and promenades, landscaping and parking facilities.

(u) "Sales tax and revenue" are those revenues available to finance the issuance of special obligation bonds as identified in K.S.A. 2015 Supp. 12-17,168, and amendments thereto.

(v) "STAR bond" means a sales tax and revenue bond.

(w) "STAR bond project" means an approved project to implement a project plan for the development of the established STAR bond project district with:

(1) At least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales; or

(2) for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds:

(A) The project is an eligible area as defined in subsection (f), and amendments thereto; and

(B) would be of regional or statewide importance; or

(3) is a major tourism area as defined in subsection (l), and amendments thereto; or

(4) is a major motorsports complex, as defined in subsection (k), and amendments thereto.

(x) "STAR bond project area" means the geographic area within the STAR bond project district in which there may be one or more projects.

(y) "STAR bond project district" means the specific area declared to be an eligible area as determined by the secretary in which the city or county may develop one or more STAR bond projects. A STAR bond project district includes a redevelopment district, as defined in K.S.A. 12-1770a, and amendments thereto, created prior to the effective date of this act for the Wichita Waterwalk project in Wichita, Kansas, provided, the city creating such redevelopment district submits an application for approval for STAR bond financing to the secretary on or before July 31, 2007, and receives a final letter of determination from the secretary approving or disapproving the request for STAR bond financing on or before November 1, 2007. No STAR bond project district shall include real property which have been part of another STAR bond project district unless such STAR bond project and STAR bond project district have been approved by the secretary of commerce pursuant to K.S.A. 2015 Supp. 12-17,164 and 12-17,165, and amendments thereto, prior to March 1, 2016. A STAR bond project district shall be limited to those areas being developed by the STAR bond project and any area of real property reasonably anticipated to directly benefit from the redevelopment project.

(z) "STAR bond project district plan" means the preliminary plan that identifies all of the proposed STAR bond project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each STAR bond project area.

(aa) "STAR bond project plan" means the plan adopted by a city or county for the development of a STAR bond project or projects in a STAR bond project district.

(bb) "Secretary" means the secretary of commerce.

(cc) "Substantial change" means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the STAR bond project district plan was approved.

(dd) "Tax increment" means that portion of the revenue derived from state and local sales, use and transient guest tax imposed pursuant to K.S.A. 12-187 et seq., 12-1692 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within that portion of a STAR bond project district occupied by a project that is in excess of the amount of base year revenue. For purposes of this subsection, the base year shall be the 12-month period immediately prior to the month in which the STAR bond project district is established. The department of revenue shall determine base year revenue by reference to the revenue collected during the base year from taxpayers doing business within the specific area in which a STAR bond project district is subsequently established. For purposes of this subsection, revenue collected from taxpayers doing business within a STAR bond project district, or within a specific area in which a STAR bond project district is subsequently established shall not include local sales and use tax revenue that is sourced to jurisdictions other than those in which the project is located.

(ee) "Taxpayer" means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

Sec. 2. K.S.A. 2015 Supp. 12-17,171 is hereby amended to read as follows: 12-17,171. (a) Any addition of area to the STAR bond project district, or any substantial change as defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to the STAR bond project district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the STAR bond project district. Any such addition of area shall be limited to real property which has not been part of another STAR bond project district.

(b) A city or county may remove real property from a STAR bond project district by an ordinance or resolution of the governing body respectively.

(c) A city or county may divide the real property in a STAR bond project district, including real property in different project areas within a STAR bond project district, into separate STAR bond project districts. Any division of real property within a STAR bond project district into more than one STAR bond project district shall be subject to the same procedure of public notice and hearing as is required for the establishment of the STAR bond project district.

(d) Subject to the provisions of subsection (a), if a city or county has undertaken a STAR bond project within a STAR bond project district, and either the city or county wishes to subsequently remove more than a de minimus amount of real property from the STAR bond project district, or the city or county wishes to subsequently divide the real property in the STAR bond project district into more than one STAR bond project district, then prior to any such removal or division the city or county must provide a feasibility study which shows that the tax revenue from the resulting STAR bond project district within which the STAR bond project is located is expected to be sufficient to pay the project costs.

(e) Removal of real property from one STAR bond project district and addition of all or a portion of that real property to another STAR bond project district may be accomplished by the adoption of an ordinance or resolution, and in such event the determination of the existence or nonexistence of an adverse effect on the county or school district under ~~subsection (f) of~~ K.S.A. 2015 Supp. 12-17,165(f), and

amendments thereto, shall apply to both such removal and such addition of real property to a STAR bond project district.

Sec. 3. K.S.A. 2015 Supp. 12-17,176 is hereby amended to read as follows: 12-17,176. (a) STAR bond projects using state sales tax financing pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto, shall be audited by an independent certified public accountant annually at the expense of the city or county. The audit report shall supplement the annual report required pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto.

(b) Such audits shall determine whether bond financing obtained under K.S.A. 2015 Supp. 12-17,169, and amendments thereto, is being used only for authorized purposes. Audit results shall be reported to the house commerce, labor and economic development~~and tourism~~ committee, the senate commerce committee, or successor committees, the governor and the secretaries of commerce and revenue during the legislative session immediately following the audit.

(c) If audit findings indicate that bond funds have been used for unauthorized or ineligible purposes, the city or county shall repay to the bond fund all such unauthorized or ineligible expenditures. Such city or county shall enter into a repayment agreement with the secretary of revenue specifying the terms of such repayment obligation.

(d) In addition to the provisions of subsection (a), annually, on or before December 31, commencing in 2016, the division of post audit shall conduct a performance audit as directed by the legislative post audit committee of all STAR bond projects using state sales tax financing pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto, to determine: (1) The current status of each STAR bond project; (2) any significant changes to each project during the previous year; (3) whether each project has complied with all requirements pursuant to the STAR bond financing act; and (4) any other issues related to STAR bond projects as determined by the legislative post audit committee. The post auditor shall compute the reasonably anticipated cost of providing the audit pursuant to this subsection, subject to review and approval of the legislative post audit committee. Upon such approval, the city or county shall pay to the division of post audit the amount approved by the legislative post audit committee. The city or county may recover the costs of the annual performance audit from the STAR bond proceeds. Audit results shall be reported to the legislative post audit committee, the house commerce, labor and economic development committee, the senate commerce committee, or successor committees, the governor, and the secretaries of commerce and revenue during the legislative session immediately following the audit.

New Sec. 4. On the effective date of this act, the provisions of section 35(g) and section 36(f) of 2016 House Substitute for Senate Bill No. 161 are hereby declared to be null and void and shall have no force and effect.";

Also on page 1, in line 16, after "Supp." by inserting "12-17,162, 12-17,171, 12-17,176 and"; also in line 16, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "economic development; relating to the STAR bond financing act; concerning"; in line 4, after "Supp." by inserting "12-17,162, 12-17,171, 12-17,176 and"; also in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

On motion of Senator Bruce, the Senate adjourned until 8:00 a.m., Friday, March 11, 2016.

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

