

# Journal of the Senate

FORTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, March 17, 2016, 2:30 p.m.

The Senate was called to order by Vice President Jeff King.

The senate was called to order with 39 senators present.

Senator Melcher was excused.

Invocation by Reverend Cecil Washington, Jr.:

Heavenly Father, You said through the Apostle James, 1:22-25, that we should act on what we hear coming out of Your Word...that anyone who looks into Your perfect Law of liberty and perseveres in doing what You say, will be blessed and prosper in what they do. Through the Psalmist, the question was asked in Psalm 119:9-13, how we get our lives cleaned up? The answer You gave was by holding on to Your Word. So, Lord, help us as a people to not deceive ourselves into just being hearers of Your Words and miss out on the benefits and joy of being doers. Help us to not only hold on to Your Words for ourselves, individually, but to do as the Psalmist said in vs 13, and use our lips to repeat to others, the invaluable regulations that come from Your lips. I come to You in the name Jesus...in the name of Your Word made flesh. Amen

The Pledge of Allegiance was led by Vice President King.

## SPECIAL PRESENTATION

To commemorate St. Patrick's Day, Vice President King introduced former Senator Richard Gannon who played traditional Celtic music on the bagpipes. Senator Gannon served in the Senate from 1977 to 1988.

The Senate honored Senator Gannon with a standing ovation.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committees as indicated:

Education: **SB 513**.

## MESSAGE FROM THE HOUSE

Announcing passage of **HB 2468**, **HB 2534**.

Announcing passage of **SB 318**, as amended.

The House accedes to the request of the Senate for a conference on **H Sub SB 55** and has appointed Representatives Schwab, Kelly and Houston as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **H Sub SB 193** and has appointed Representatives Highland, Lunn and Winn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 325** and has appointed Representatives Gonzalez, Pauls and Highberger as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **H Sub SB 337** and has appointed Representatives Schwartz, Boldra and Victors as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 390** and has appointed Representatives Schwab, Kelly and Houston as conferees on the part of the House.

The House announced the appointment of Rep. Pauls as a conferee to replace Rep. Rubin on **S Sub HB 2049**.

#### **INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2468, HB 2534** were thereupon introduced and read by title.

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

Senators Holland, Haley and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1781—

A RESOLUTION urging the Kansas congressional delegation to work with operators of Kansas wineries and the Alcohol and Tobacco Tax and Trade Bureau to apply for and achieve American Viticultural Area status for one or more regions within the state.

WHEREAS, The grape-growing and wine-producing potential of Kansas was first noted by early explorers, including Meriwether Lewis and William Clark, who described "great quantities of summer and fall grapes" along the shore of the Missouri River in the northeast corner of the state; and

WHEREAS, A grape-growing and wine-producing industry was established by some of Kansas' earliest settlers, including A.M. Burns of Riley County who, in 1857, predicted "a glorious future for the grape in Kansas," and whose prediction began to ring true after the end of the Civil War when the planting of grape vines peaked at 7,000 acres, grown across the state from the western plains to the eastern hills; and

WHEREAS, The thriving industry was pushed underground and nearly eradicated by the strong forces of prohibition, which swept across the state in the 1890s and continued into the mid-20th century; and

WHEREAS, The industry in Kansas has witnessed a resurgence since the loosening of alcohol regulation in the 1980s; and

WHEREAS, The most recent available state Department of Agriculture data from 2010 reports that nearly 355 tons of grapes were grown and more than 100,000 gallons of wine were produced in the state of Kansas; and

WHEREAS, In the same year, Kansas wineries reported more than a quarter-million visitors, more than half of whom were visiting from other states; and

WHEREAS, In the same year Kansas wineries reported nearly \$3.5 million in sales, which contributed to the state economy; and

WHEREAS, American Viticultural Areas (AVAs) are delineated grape-growing regions within the United States, which possess distinguishing geological and geographic characteristics; and

WHEREAS, Consumers throughout the country and around the world utilize AVA labels to identify the quality and reputation of wines produced with grapes grown in these regions; and

WHEREAS, Kansas is one of 25 states without an established AVA; and

WHEREAS, The establishment of one or several AVAs within the state of Kansas would aid and promote further development of the historic and burgeoning wine-producing industry in our state: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we urge the Kansas congressional delegation to work with operators of Kansas wineries and the Alcohol and Tobacco Tax and Trade Bureau to apply for and achieve AVA status for one or more regions within the state; and

*Be it further resolved:* That the Secretary of the Senate shall send three enrolled copies of this resolution to Senator Holland and an enrolled copy to each member of the Kansas congressional delegation.

On emergency motion of Senator Holland **SR 1781** was adopted unanimously.

#### **FINAL ACTION ON CONSENT CALENDAR**

**SB 404; HB 2442, HB 2485, HB 2516, HB 2536** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

**SB 404**, AN ACT concerning the disposition of state real property; authorizing the state board of regents to sell certain real property on behalf of Kansas state university located in Riley county, 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed.

**HB 2442**, AN ACT concerning the legislative division of post audit; relating to information technology audits; amending K.S.A. 2015 Supp. 46-1135 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed.

**HB 2485**, AN ACT concerning insurance; relating to risk-based capital instructions; effective date; amending K.S.A. 2015 Supp. 40-2c01 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed.

**HB 2516**, AN ACT concerning the department of health and environment; relating to the asbestos control act, licensing requirements; air fee fund, transfers; amending K.S.A. 65-5301, 65-5303, 65-5304, 65-5307, 65-5309 and 65-5311 and K.S.A. 2015 Supp. 65-5310 and 65-5314 and repealing the existing sections; also repealing K.S.A. 65-5308.

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

Absent or Not Voting: Melcher.

The bill passed.

**HB 2536**, AN ACT concerning accountants; relating to licensure; amending K.S.A. 2015 Supp. 1-307, 1-308, 1-311, 1-312, 1-321 and 1-322 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed.

## **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 421**, AN ACT concerning firearms; relating to the personal and family protection act; relating to carrying a concealed handgun in a public building; amending K.S.A. 2015 Supp. 75-7c20 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-

Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Present and Passing: Francisco.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**SB 454**, AN ACT concerning court fees and funds; amending K.S.A. 2015 Supp. 8-2107, 20-362, 20-3021, 21-6614, 22-2410, 23-2510, 28-170, 28-170a, 28-172a, 28-177, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-729, 60-2001, 60-2008, 60-2203a, 61-2704, 61-4001 and 65-409 and repealing the existing sections; reviving and amending K.S.A. 5-517 and 20-166 and K.S.A. 2013 Supp. 20-1a04, 28-172b, 74-7325, 74-7334 and 75-7021 and repealing the revived sections; also repealing K.S.A. 5-517, as amended by section 5 of chapter 82 of the 2014 Session Laws of Kansas, and 20-166, as amended by section 8 of chapter 82 of the 2014 Session Laws of Kansas; K.S.A. 2013 Supp. 20-1a04, as amended by section 6 of chapter 82 of the 2014 Session Laws of Kansas, 20-367, 21-6614d, 28-172b, as amended by section 28 of chapter 82 of the 2014 Session Laws of Kansas, 38-2312c, 60-2001b, 74-7325, as amended by section 38 of chapter 82 of the 2014 Session Laws of Kansas, 74-7334, as amended by section 39 of chapter 82 of the 2014 Session Laws of Kansas, and 75-7021, as amended by section 42 of chapter 82 of the 2014 Session Laws of Kansas; and K.S.A. 2015 Supp. 20-1a16, 20-1a17, 21-6614f, 28-178 and 28-179, was considered on final action.

On roll call, the vote was: Yeas 30; Nays 7; Present and Passing 2; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Bowers, Denning, Donovan, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, O'Donnell, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, V. Schmidt, Smith, Wagle, Wilborn, Wolf.

Nays: Baumgardner, Bruce, Holmes, Knox, Olson, Pyle, Tyson.

Present and Passing: Francisco, McGinn.

Absent or Not Voting: Melcher.

The bill passed.

**SB 457**, AN ACT concerning skilled nursing care facilities; relating to the quality care assessment; rate and sunset thereof; quality care improvement panel membership; reporting requirements; amending K.S.A. 2015 Supp. 75-7435 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 34; Nays 5; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Baumgardner, Olson, Pilcher-Cook, Pyle, Tyson.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**SB 474**, AN ACT concerning economic development; relating to the STAR bond financing act; relating to oversight of STAR bonds by the secretary of commerce;

concerning the Kansas bioscience authority; delegating authority to the state finance council to oversee any sale of the Kansas bioscience authority or substantially all of the authority's assets; amending K.S.A. 2015 Supp. 12-17,162, 12-17,164, 12-17,166, 12-17,169, 12-17,171, 12-17,176 and 74-99b15 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34; Nays 4; Present and Passing 1; Absent or Not Voting 1.

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

Nays: Kelly, McGinn, Pettey, V. Schmidt.

Present and Passing: Francisco.

Absent or Not Voting: Melcher.

The bill passed, as amended.

#### EXPLANATION OF VOTE

Mr. Vice President: I vote "No" on **SB 474**. I am disappointed that the established model for enhancing industries in Kansas will no longer exist. The Kansas Bioscience Authority focused on industry sectors where Kansas has conspicuous advantages – agribusiness, animal health, human health and life sciences technology. The KBA was instrumental in assisting with the site selection process that selected Manhattan, Kansas as the location for the National Bio and Agro-defense (NBAF) facility. KBA also played an integral part in the designation of the University of Kansas Cancer Center achieving the National Cancer Institute (NCI) designation in June 2012. Some disappointing things happened at KBA and it has not reached its full potential, but never the less it has been responsible for some amazing things in Kansas that would not have happened otherwise. Instead of finding a way for this asset to thrive for the benefit of all Kansans, we are now selling off its assets to pay our bills. In the end, we are destroying a tremendous economic tool that has helped bring jobs and industry to Kansas.—VICKI SCHMIDT

Senators Kelly and McGinn request the record to show they concur with the "Explanation of Vote" offered by Senator V. Schmidt on **SB 474**.

**S Sub HB 2112**, AN ACT concerning children and families; enacting the host families act; relating to temporary care for children, was considered on final action.

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

Absent or Not Voting: Melcher.

The substitute bill passed.

**Sub HB 2151**, AN ACT concerning grand juries; summoning; jury instructions; witnesses; amending K.S.A. 2015 Supp. 22-3001 and repealing the existing section,

was considered on final action.

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

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2446**, AN ACT concerning insurance; relating to motor vehicle liability insurance; increasing minimum policy limit for property damage; amending K.S.A. 40-3107 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Haley, Pilcher-Cook, Pyle, Tyson.

Absent or Not Voting: Melcher.

The bill passed, as amended.

#### EXPLANATION OF VOTE

Mr. Vice President: I vote "Yes" on **HB 2446**. However it is with some disappointment. **HB 2446** is a partial, short-term fix. While **HB 2446** makes needed changes to the mandatory coverage requirements for property insurance, the bill ignores the minimum coverage requirements for bodily injury, which the Legislature last amended in 1981. Times have changed. More Kansans buy insurance on-line. Minimum limits no longer accurately reflect medical costs or lost wages. Minimum limits are no longer reasonably adequate. In 2017, we must finish what was started in **HB 2446** and address both bodily injury minimums and uninsured motorist coverage. It is my sincere hope the Legislature will work to give just as much deference to a shattered leg or a shattered life as **HB 2446** does to a shattered bumper.—TOM HAWK

Senators Francisco, Hensley, Holland and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Hawk on **HB 2446**.

**HB 2447**, AN ACT concerning crimes, punishment and criminal procedure; relating to the secretary of corrections; program credits; delinquent time lost on parole; amending K.S.A. 2015 Supp. 21-6821 and 75-5217 and repealing the existing sections, was considered on final action.

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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt,

Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2454**, AN ACT concerning insurance; relating to accident and sickness insurance; policy provisions; requiring health services to be rendered by participating providers, was considered on final action.

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

Absent or Not Voting: Melcher.

The bill passed.

**HB 2462**, AN ACT concerning crimes, punishment and criminal procedure; relating to theft; amending K.S.A. 2015 Supp. 21-5801 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 33; Nays 6; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Bruce, LaTurner, Petersen, Pilcher-Cook, Pyle, Tyson.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2501**, AN ACT Concerning crimes, punishment and criminal procedure; relating to {blackmail; breach of privacy;} jurisdiction and venue; crime committed with an electronic device; amending K.S.A. 2015 Supp. {21-5428, 21-6101 and} 22-2619 and repealing the existing {sections}, was considered on final action.

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

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2545**, AN ACT concerning criminal procedure; relating to arrest warrants; search warrants; amending K.S.A. 2015 Supp. 22-2302 and 22-2502 and repealing the existing sections, was considered on final action.

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,



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

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HCR 5008**, A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, relating to the public right to hunt, fish and trap wildlife, was considered on final action.

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

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

Present and Passing: Faust-Goudeau, Francisco, Haley.

Absent or Not Voting: Melcher.

The resolution was adopted.

#### 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 Smith in the chair.

On motion of Senator Smith the following report was adopted:

**HB 2567** be passed.

A motion to reconsider previous action on **HB 2567** failed.

**SB 445; HB 2563** be amended by the adoption of the committee amendments, and the bills be passed as amended.

The committee report on **HB 2131** recommending **S Sub HB 2131** be adopted, be amended by motion of Senator Petersen: on page 3, following line 12, by inserting:

"(13) "Search ring" means a shape drawn on a map to indicate the general area within which a wireless services provider support structure should be located to meet radio frequency engineering requirements, taking into account other factors, including topography and the demographics of the service area.";

On page 6, in line 30, by striking all after the first "to"; in line 31, by striking all before the period and inserting "the condition in which it existed prior to the damage"; in line 34, after the period by inserting "If an authority incurs damages as a result of a violation of this paragraph, then the authority shall have a cause of action against a wireless services provider or wireless infrastructure provider for violation of this paragraph, and may recover its damages, including reasonable attorney fees, if such provider is found liable by a court of competent jurisdiction.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

**S Sub HB 2131** be further amended by motion of Senator Longbine: on page 9, in line 35, after "near" by inserting "civilian"; also in line 35, by striking all after "airports"; in line 37, after "to" by inserting "civilian"; in line 42, by striking all after "near"; in line 43, by striking "installations" and inserting "civilian airports";

On page 12, following line 42, by inserting:

"(k) Nothing in this section shall be construed to apply to military installations.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

**S Sub HB 2131** be further amended by motion of Senator Petersen: on page 10, in line 28, before the semicolon by inserting ". In developing such a requirement or obligation for wireless facilities located on a public right-of-way, the authority shall consider input from property owners adjoining the affected public right-of-way" and **S Sub HB 2131** be passed as amended.

**Sub HB 2473** be amended by the adoption of the committee amendments and be further amended by motion of Senator Fitzgerald: on page 3, in line 13, by striking "army"; in line 14, after the first comma by inserting "combat action badge,"; in line 18, by striking "army"; also in line 18, after the second comma by inserting "combat action badge,"

and **Sub HB 2473** be passed as further amended.

**HB 2522** amended by the adoption of the committee amendments and be further amended by motion of Senator Schmidt: on page 4, following line 38, by inserting:

"(j) For purposes of this subsection, the division may rely on the division's most recent, existing color digital image and signature image of the applicant for the class C or M driver's license if the division has the information on file. The determination on whether an electronic online renewal application or equivalent of a driver's license is permitted shall be made by the director of vehicles or the director's designee. The division shall not renew a driver's license through an electronic online or equivalent process if the license has been previously renewed through an electronic online application in the immediately preceding driver's license period. No renewal under this subsection shall be granted to any person who is: (1) Younger than 30 days from turning 21 years of age; (2) 65 years of age or older; (3) a registered offender pursuant to K.S.A. 22-4901 et seq., and amendments thereto; or (4) has a temporary driver's license issued pursuant to K.S.A. 8-240(b)(3), and amendments thereto, provided the license is not otherwise withdrawn. The secretary of revenue may adopt and administer rules and regulations to implement a program to permit an electronic online renewal of a driver's license.";

On page 1, in the title, in line 2, after the first semicolon by inserting "renewal;" and **HB 2522** be passed as further amended.

**SB 422** be amended by the adoption of the committee amendments, and be further amended by motion of Senator Tyson: on page 13, following line 35, by inserting:

"Sec. 18. (a) Notwithstanding any other provision of law, no state agency shall enter into any agreement or take any action to outsource or privatize any operations or facilities of the Larned state hospital or Osawatamie state hospital without prior specific authorization by an act of the legislature or an appropriation act of the legislature.

(b) Nothing in this section shall prevent any state agency from renewing, in substantially the same form as an existing agreement, any agreement in existence prior to March 4, 2016, for services at the Larned state hospital or the Osawatamie state hospital.

(c) Nothing in this section shall prevent any state agency from entering into an agreement for services at the Larned state hospital or the Osawatamie state hospital with a different provider if such agreement is substantially similar to an agreement for services in existence prior to March 4, 2016.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "the department for aging and disability services" and inserting "health and healthcare"; in line 3, after the semicolon by inserting "prohibiting the privatization of state psychiatric hospitals;" and **SB 422** be passed as further amended.

A motion by Senator Schmidt to re-refer **SB 422** back to the Committee on **Public Health and Welfare** failed.

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 15; Nays 20; Present and Passing 4; Absent or Not Voting 1.

Yeas: Baumgardner, Faust-Goudeau, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, Longbine, McGinn, Pettey, V. Schmidt, Tyson, Wolf.

Nays: Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, King, Knox, LaTurner, Love, Lynn, Masterson, O'Donnell, Ostmeyer, Petersen, Pilcher-Cook, Powell, Smith, Wagle, Wilborn.

Present and Passing: Abrams, Haley, Olson, Pyle.

Absent or Not Voting: Melcher.

**SB 436, SB 437** be passed over and retain a place on the calendar.

#### **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority, and **SB 422, SB 455; S Sub HB 2131; Sub HB 2473; HB 2522, HB 2563, HB 2567** were advanced to Final Action and roll call.

**SB 422**, AN ACT concerning the department for aging and disability services; providing for the licensure of certain facilities and standards for treatment of certain individuals; repealing K.S.A. 39-1807 and 75-3307c and K.S.A. 2015 Supp. 75-3307b.

On roll call, the vote was: Yeas 31; Nays 5; Present and Passing 3; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Fitzgerald, Haley, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle, Wilborn, Wolf.

Nays: Faust-Goudeau, Hensley, Holland, Kelly, Tyson.

Present and Passing: Francisco, Hawk, Pettey.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**SB 445**, AN ACT concerning the client assessment, referral and evaluation program; amending K.S.A. 2015 Supp. 39-968 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**S Sub HB 2131**, AN ACT concerning telecommunications; relating to local exchange carriers; concerning the Kansas universal service fund; concerning wireless communications, siting of equipment; relating to municipalities and state entities, public lands and public right-of-way; amending K.S.A. 17-1902 and 66-2004 and K.S.A. 2015 Supp. 66-2005, 66-2007, 66-2008 and 66-2017 and repealing the existing sections.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Baumgardner, Masterson, O'Donnell, Wagle.

Absent or Not Voting: Melcher.

The substitute bill passed, as amended.

**Sub HB 2473**, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the Alzheimer's disease awareness license plate; decals for certain military medals or badges; amending K.S.A. 2015 Supp. 8-1,156 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2522**, AN ACT concerning the division of vehicles; relating to drivers' licenses and identification cards; renewal; facial imaging; amending K.S.A. 2015 Supp. 8-240, 8-243 and 8-1324 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle, Wilborn, Wolf.

Nays: Tyson.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2563**, AN ACT concerning motor vehicles; relating to the application fee for a restricted motorized bicycle driver's license; amending K.S.A. 2015 Supp. 8-235 and repealing the existing section.

On roll call, the vote was: Yeas 36; Nays 3; 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,

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

Nays: LaTurner, Tyson, Wagle.

Absent or Not Voting: Melcher.

The bill passed, as amended.

**HB 2567**, AN ACT concerning military members and veterans; relating to postsecondary educational institutions; tuition and fees; amending K.S.A. 2015 Supp. 48-3601 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, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Melcher.

The bill passed.

## REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 502** be passed.

Also, **SB 501** be amended on page 1, in line 23, after "(c)" by inserting "Any state agency or entity implementing a non-discretionary performance-based bonus program must additionally establish a system to provide for regular and objective employee performance evaluations for all bonus-eligible employees, regardless of classified status. Such employee performance evaluation system must include, but is not limited to, the following elements:

- (1) Defined, objective measures for reviewing each employee's performance;
- (2) defined, regular time intervals over which performance will be measured, with no interval shorter than three months nor longer than 12 months; and
- (3) requirements for supervisory personnel to provide regular performance-based feedback throughout the evaluation period.
- (d) ";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly; and the bill be passed as amended.

The Committee on **Education** recommends **HB 2441** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2441," as follows:

"Senate Substitute for HOUSE BILL NO. 2441  
By Committee on Education

"AN ACT concerning education; creating a language assessment program for children who are deaf or hard of hearing.";

And the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **HB 2549**, **HB 2573** as amended by House Committee, be passed.

Committee on **Federal and State Affairs** begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Member, Kansas Human Rights Commission: K.S.A. 44-1003

Harold Schorn, Jr., term expires January 15, 2018

Member, Kansas Human Rights Commission: K.S.A. 44-1003

Melvin Neufeld, term expires January 15, 2020

Member, Kansas Lottery Commission: K.S.A. 74-8709

James Washington, term expires March 15, 2020

Committee on **Financial Institutions and Insurance** recommends **HB 2134, HB 2632** be passed.

Committee on **Financial Institutions and Insurance** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Member, State Banking Board: K.S.A. 74-3004

Brian Weisel, term expires March 15, 2018

Committee on **Judiciary** recommends **SB 424** be amended on page 1, in line 19, by striking "identifying"; also in line 19, before "means" by inserting "or "holder""; in line 21, by striking "identifying"; in line 22, after "any" by inserting "other"; in line 26, by striking "identifying"; also in line 26, by striking all after "information"; in line 27, by striking all before the period and inserting "means personal information as defined by K.S.A. 50-7a01(g), and amendments thereto, and any other information which identifies an individual for which an information security obligation is imposed by federal or state statute or regulation"; in line 30, by striking "identifying"; in line 33, by striking "identifying"; in line 34, by striking "destruction,."; also in line 34, after "disclosure" by inserting ". If federal or state law or regulation governs the procedures and practices of the holder of personal information for such protection of personal information, then compliance with such federal or state law or regulation shall be deemed compliance with this paragraph and failure to comply with such federal or state law or regulation shall be prima facie evidence of a violation of this paragraph";

On page 2, in line 2, by striking "identifying"; also in line 2, by striking "records are no longer to be retained" and inserting "holder no longer intends to maintain or possess such records"; in line 6, after "(c)" by inserting "A holder of personal information shall have an affirmative defense to a violation of subsection (b)(2) if such holder proves by clear and convincing evidence that:

(1) The violation resulted from a failure of the method of destruction of records to make personal information contained in such records unreadable or undecipherable through any means, and such failure could not reasonably have been foreseen despite the holder's exercise of reasonable care in selecting and employing a method of destruction; or

(2) the holder of personal information had in effect at the time of the violation a bona fide written or electronic records management policy, including practices and procedures reasonably designed, maintained, and expected to prevent a violation of subsection (b)(2), and that the records involved in the violation of subsection (b)(2) were destroyed or disposed of in violation of such policy. No affirmative defense under

this paragraph shall be available unless such holder proves:

(A) The employees or other persons involved in the violation received training in the holder's written or electronic records management policy;

(B) the violation resulted from a good faith error; and

(C) no reasonable likelihood exists that the violation may cause, enable or contribute to identity theft or identity fraud as defined by K.S.A. 2015 Supp. 21-6107, and amendments thereto, or to a violation of an information security obligation imposed by federal or state statute or regulation.

(d) ";

Also on page 2, also in line 6, by striking "A" and inserting "Each"; in line 8, by striking all after "is"; in line 9, by striking all before "shall" and inserting "not destroyed in compliance with subsection (b)(2)"; in line 14, after the period by inserting "Nothing in this section shall be construed to create or permit a private cause of action for any violation of this section.

(f) Nothing in this section relieves a holder of personal information from any duty to comply with other requirements of state and federal law regarding the protection of such information.";

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

Also on page 2, by striking all in lines 35 through 38;

On page 1, in the title, in line 2, by striking "identifying"; and the bill be passed as amended.

Committee on **Judiciary** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Member, State Board of Indigent Defense Services: K.S.A. 22-4519

Paul Beck, term expires January 15, 2019

Committee on **Natural Resources** recommends **HB 2547** be amended on page 1, in line 5, before "Section" by inserting "New"; following line 6, by inserting:

"Sec. 2. K.S.A. 32-960a is hereby amended to read as follows: 32-960a. (a) On or before January 1, 1998, the secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations establishing procedures for developing and implementing recovery plans for all species listed as in need of conservation, threatened or endangered. The secretary shall give priority to development of recovery plans for particular species based on a cumulative assessment of the scientific evidence available. Based on the priority ranking, the secretary shall develop and begin implementation of recovery plans for at least two listed species on or before January 1, 1999.

(b) Whenever a species is added to the list of threatened or endangered species, the secretary shall establish a volunteer local advisory committee composed of members broadly representative of the area affected by the addition of the species to the list. Members shall include representatives of specialists from academic institutions, agribusiness and other trade organizations, state environmental and conservation organizations and other interested organizations and individuals. In addition, the membership shall include, if appropriate, landowners and public officials representing state, local and tribal governments. To the maximum extent possible, committee

membership shall evenly balance the interests of all potentially affected groups and institutions.

(c) The advisory committee shall: (1) Work with the secretary to adapt the listing of the species and the recovery plan for the species to the social and economic conditions of the affected area; and (2) disseminate information to the public about the scientific basis of the decision to list the species, the regulatory process and incentives available to landowners pursuant to this act.

(d) If a species in need of conservation receives a priority ranking to develop and begin implementation of a recovery plan, the secretary shall establish a volunteer local advisory committee in the same manner as provided by subsection (b) to work with the secretary to adapt the recovery plan and disseminate information to the public.

(e) In implementing a recovery plan for a species, the secretary shall consider any data, recommendations and information provided by the advisory committee.

(f) The secretary shall cause each developed and implemented recovery plan to be published and maintained on the official website of the department of wildlife, parks and tourism.

Sec. 3. K.S.A. 32-961 is hereby amended to read as follows: 32-961. (a) Whenever any species is listed as a threatened species pursuant to K.S.A. 32-960, and amendments thereto, the secretary shall adopt such rules and regulations pursuant to K.S.A. 32-963, and amendments thereto, as the secretary deems necessary and advisable to provide for the conservation of such species. By rules and regulations adopted pursuant to K.S.A. 32-963, and amendments thereto, the secretary may prohibit with respect to any threatened species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto, except as provided in subsection (c), any act which is prohibited under subsection (b) ~~with respect to any endangered species included in a list adopted pursuant to K.S.A. 32-960.~~

(b) Except as otherwise specifically provided by this section or rules and regulations adopted pursuant to this section, a special permit is required for any person subject to the jurisdiction of this state to:

(1) Export from this state any endangered species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto;

(2) possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any such endangered species; or

(3) act in a manner contrary to any rule and regulation adopted by the secretary pursuant to authority provided by K.S.A. 32-957 through 32-963 and 32-1009 through 32-1012, and amendments thereto, which pertains to such endangered species or to any threatened species of wildlife included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto.

(c) The provisions of subsection (b)(3) shall not apply to:

(1) Normal farming and ranching practices, including government cost-shared agriculture land treatment measures, unless a permit is required by another state or federal agency or such practices involve an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or involve an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto;

(2) development of residential and commercial property on privately owned property financed with private, nonpublic funds unless a permit is required by another state or federal agency or the development involves an intentional taking of a threatened



species under K.S.A. 32-1010, and amendments thereto, or involves an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto; or

(3) activities for which a person has obtained a scientific, educational or exhibition permit, as provided by K.S.A. 32-952, and amendments thereto.

(d) For the purposes of this section, a permit required by another state or federal agency shall not include a certification or registration.

(e) Subsection (b) ~~does~~ shall not apply to any endangered species listed pursuant to K.S.A. 32-960, and amendments thereto, and any species of wildlife determined to be an endangered species pursuant to Pub. L. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto, entering the state from another state or from a point outside the territorial limits of the United States and being transported to a point within or beyond the state in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

~~(d)~~(f) The secretary may issue special permits to authorize, under such terms and conditions as the secretary prescribes, any act described in subsection (b) or any act which is otherwise prohibited by rules and regulations adopted pursuant to subsection (a), for scientific purposes or to enhance the propagation or survival of the affected species. Application for such permit shall be made to the secretary or the secretary's designee and shall be accompanied by the fee prescribed pursuant to K.S.A. 32-988, and amendments thereto. The secretary shall maintain a list of permit applications under this subsection. Where such applications have been approved and special permits have been issued, the secretary shall maintain a list of such permits, including therein the name and address of the permittee and the terms and conditions prescribed for each such permit. The secretary shall keep such lists current and shall file copies thereof, along with any additions or amendments, with the secretary of the interior of the federal government.

~~(e)~~(g) Threatened or endangered species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto, may be captured or destroyed without a permit by any person in an emergency situation involving an immediate and demonstrable threat to human life.

(h) (1) For all new species listed as endangered or threatened by the secretary pursuant to this act on and after July 1, 2016, recovery plans for such species shall be completed within four years after the species is listed. If such recovery plan is not completed within four years, no permit shall be required by the secretary for any activity that would otherwise require a permit pursuant to this act until the recovery plan is complete. The provisions of this paragraph shall not apply to any species listed as endangered or threatened under the endangered species act of 1973 (Pub. L. No. 93-205).

(2) The secretary shall annually submit a report on all species listed as endangered or threatened as of June 30, 2016, to the senate committee on natural resources and the house committee on agriculture and natural resources. Such report shall include:

(A) The status of species with a completed recovery plan;

(B) the status of species with a recovery plan currently in process, but not yet complete; and

(C) future goals for completing recovery plans for any listed species that does not yet have a recovery plan.

Sec. 4. K.S.A. 32-960a and 32-961 are hereby repealed.;

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking the second comma and inserting a semicolon; also in line 1, after "to" by inserting "wildlife;"; in line 2, after "area" by inserting "; nongame and endangered species act; amending K.S.A. 32-960a and 32-961 and repealing the existing sections"

and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2518** be passed.

Also, **SB 363**, as amended by Senate Committee of the Whole, be amended on page 17, in line 8, after "chiropractor" by inserting ", a licensed physical therapist";

On page 29, following line 31, by inserting:

"New Sec. 26. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist.

(b) This section shall be part of and supplemental to the physical therapy practice act.

Sec. 27. K.S.A. 2015 Supp. 65-2901 is hereby amended to read as follows: 65-2901. As used in ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act:

(a) "Physical therapy" means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in community or work integration or reintegration; manual therapy; dry needling; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist who is licensed pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

(b) "Physical therapist" means a person who is licensed to practice physical therapy pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist and may designate or describe oneself, as appropriate,

as a physical therapist, physiotherapist, licensed physical therapist, doctor of physical therapy, abbreviations thereof, or words similar thereto or use of the designated letters P.T., Ph. T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(c) "Physical therapist assistant" means a person who is certified pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, the~~ physical therapy practice act and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(d) "Board" means the state board of healing arts.

(e) "Council" means the physical therapy advisory council.

(f) "Dry needling" means a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments.

(g) "Physician" means a person licensed to practice medicine and surgery.

~~(g)~~ (h) "Recognized by the board" means an action taken by the board at an open meeting to recognize letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials, consistent with the provisions of this act, which a physical therapist may appropriately use to designate or describe oneself and which shall be published in the official minutes of the board.

Sec. 28. K.S.A. 2015 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, the physical therapy practice act~~ as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist, licensed physical therapist or doctor of physical therapy or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-

2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ the physical therapy practice act shall be guilty of a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ the physical therapy practice act shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) ~~of this section~~:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;
- (5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under ~~subsection (g) of K.S.A. 65-2872(g),~~ and amendments thereto;
- (6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;
- (7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under ~~subsection (m) of K.S.A. 65-1124(m),~~ and amendments thereto;
- (8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;
- (9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;

- (10) self-care by a patient or gratuitous care by a friend or family member;
- (11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;
- (14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;
- (15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;
- (16) persons practicing corrective therapy in accordance with their training in corrective therapy;
- (17) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;
- (18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;
- (19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;~~and~~
- (22) naturopathic doctors practicing their profession when licensed and practicing in accordance with the naturopathic doctor licensure act;~~and~~
- (23) acupuncturists practicing their profession when licensed and practicing in accordance with the acupuncture practice act.
- (d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.
- (e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act.";
- Also on page 29, in line 32, by striking "is" and inserting ", 65-2901 and 65-2913 are";
- And by renumbering sections accordingly;
- On page 1, in the title, in line 1, by striking the second "the" and inserting "powers,

duties and functions;"; in line 2, after the semicolon by inserting "regulation of physical therapists; physical therapy scope of practice;"; also in line 2, after "65-2872" by inserting ", 65-2901 and 65-2913"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as further amended.

**SB 490** be amended on page 1, following line 5, by inserting:

"New Section 1. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist.

(b) This section shall be part of and supplemental to the physical therapy practice act.";

On page 2, in line 37, after "(f)" by inserting ""Dry needling" means a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments.

(g) ";

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

On page 3, following line 1, by inserting:

"Sec. 3. K.S.A. 2015 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under ~~article 29 of chapter 65 of the Kansas Statutes Annotated~~, and amendments thereto, the physical therapy practice act as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist, licensed physical therapist or doctor of physical therapy or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated~~, and amendments thereto, the physical therapy practice act shall be guilty of a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any

educational degrees, certifications or credentials which such physical therapist assistant has earned.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;~~ the physical therapy practice act shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) ~~of this section~~:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;
- (5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under ~~subsection (g) of K.S.A. 65-2872(g)~~, and amendments thereto;
- (6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;
- (7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under ~~subsection (m) of K.S.A. 65-1124(m)~~, and amendments thereto;
- (8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;
- (9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;
- (10) self-care by a patient or gratuitous care by a friend or family member;
- (11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;
- (14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;
- (15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;
- (16) persons practicing corrective therapy in accordance with their training in corrective therapy;
- (17) athletic trainers practicing their profession when licensed and practicing in

accordance with the athletic trainers licensure act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;~~and~~

(22) naturopathic doctors practicing their profession when licensed and practicing in accordance with the naturopathic doctor licensure act; ~~and~~

(23) (A) acupuncturists practicing their profession when licensed and practicing in accordance with the acupuncture practice act.

(B) The provisions of subsection (c)(23)(A) shall take effect and be in force on and after July 1, 2016, and the enactment of 2016 Senate Bill No. 363 into law.

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act.;

Also on page 3, in line 2, by striking "is" and inserting "and 65-2913 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "exemptions from licensure requirements; rules and regulations;"; also in line 2, after "65-2901" by inserting "and 65-2913"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2610**, as amended by House Committee of the Whole, be amended on page 1, following line 33, by inserting:

"Sec. 4. The portion of K-148 from the intersection with 23<sup>rd</sup> road in Washington county, then north to the Nebraska state line is hereby designated as the SGT Lavern W Tegtmeier memorial highway. Upon compliance with K.S.A. 2015 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the SGT Lavern W Tegtmeier memorial highway.";

And by renumbering sections accordingly;

On page 1, in the title, in line 7, after "interchange" by inserting "; a portion of K-148 as the SGT Lavern W Tegtmeier memorial highway"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 512** be amended on page 1, in line 16, by striking "\$464,092,249" and inserting "\$465,003,991"; in line 22, by striking



"\$517,594,858" and inserting "\$515,784,787";

On page 6, in line 29, by striking "1.55%" and inserting "1.45%"; and the bill be passed as amended.

#### **REPORT ON ENROLLED BILLS**

**SR 1777, SR 1778, SR 1779, SR 1780** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 17, 2016.

On motion of Senator Bruce, the Senate adjourned until 9:00 a.m., Friday, March 18, 2016.

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

