

# Journal of the House

## THIRTEENTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, January 25, 2018, 11:00 a.m.

The House met pursuant to adjournment with Speaker Ryckman in the chair.

The roll was called with 124 members present.

Rep. Schwab was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Lord God in heaven,  
thank You for another new day  
in which we can count on your faithfulness.  
May our leaders welcome Your guidance,  
presence and perfect wisdom to  
illuminate their thoughts, decisions and actions.  
Help them to lead with a confidence and clarity  
that comes from You.  
May they be open to the renewing of their minds  
through Your grace and wisdom.  
Thank you for being with Representative Weber  
as he was in the hospital, but is with us today.  
Thank You for bringing healing to his body.  
This I pray in Your Name,  
Amen.

The Pledge of Allegiance was led by Rep. Whipple.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2540**, AN ACT concerning school districts; relating to the Kansas state high school activities association; relating to participation by certain students, by Committee on Education.

**HB 2541**, AN ACT concerning postsecondary education; relating to the Kansas national guard educational assistance act; relating to participant qualifications and recoupment of assistance; amending K.S.A. 74-32,148 and 74-32,149 and K.S.A. 2017 Supp. 74-32,146 and repealing the existing sections, by Committee on Education.

**HB 2542**, AN ACT concerning the Kansas private and out-of-state postsecondary educational institution act; modifying certain fees; removing sunset date; amending K.S.A. 2017 Supp. 74-32,181 and repealing the existing section, by Committee on Education.

**HB 2543**, AN ACT concerning days of commemoration; relating to post-traumatic stress injury awareness day, by Committee on Veterans and Military.

**HB 2544**, AN ACT concerning workers compensation; relating to benefit reductions due to retirement benefits; amending K.S.A. 2017 Supp. 44-501 and repealing the existing section, by Committee on Commerce, Labor and Economic Development.

**HB 2545**, AN ACT concerning gaming; relating to the Kansas expanded lottery act; relating to the state debtor setoff program; relating to horse and greyhound racing; amending K.S.A. 74-8802 and 74-8836 and K.S.A. 2017 Supp. 74-8702, 74-8741, 74-8743, 74-8744, 74-8746, 74-8747, 74-8766, 74-8813, 74-8814 and 75-6204 and repealing the existing sections, by Committee on Federal and State Affairs.

**HB 2546**, AN ACT concerning the Kansas state fair; relating to state sales tax revenues collected by the Kansas state fair; deposit of revenues in state fair capital improvements fund; amending K.S.A. 2017 Supp. 2-223 and repealing the existing section, by Representatives Schroeder, Arnberger, Carlin, Clark, Gartner, Hibbard, Johnson, Ousley and Sloan.

**HB 2547**, AN ACT concerning the Kansas state fair board; terms of members; expiration date; amending K.S.A. 2017 Supp. 74-520a and repealing the existing section, by Representatives Schroeder, Arnberger, Carlin, Clark, Gartner, Hibbard, Johnson, Ousley and Sloan.

**HB 2548**, AN ACT concerning the legislature; relating to bills introduced by committees; requirements for printed bills and committee minutes; committee bills requested by legislator on behalf of other person, state or local agency, organization or entity, by Representatives Clayton, Bishop, Brim, Burroughs, Carlin, Carmichael, Cox, Crum, S., Curtis, Dierks, Esau, Finney, Gallagher, Gartner, Good, Holscher, Horn, Huebert, K. Jones, Karleskint, Kessinger, Koesten, Kuether, Landwehr, Lusk, Markley, Miller, Murnan, Neighbor, Ousley, Parker, Pittman, Probst, Rafie, Rooker, Smith, A., Stogsdill, Trimmer, Ward, Whipple and Wolfe Moore.

**HB 2549**, AN ACT concerning mental health services; determinations of competency; commitment for treatment; Larned state hospital and Osawatomic state hospital catchment areas; amending K.S.A. 2017 Supp. 22-3302, 22-3303 and 39-1602 and repealing the existing sections, by Committee on Health and Human Services.

**HB 2550**, AN ACT concerning civil actions; relating to wrongful death; removing caps on damages in certain actions; amending K.S.A. 60-1903 and repealing the existing section, by Committee on Judiciary.

**HB 2551**, AN ACT concerning correctional institutions and juvenile correctional facilities; prohibiting the outsourcing or privatization of any operations or facilities thereof; allowing existing contracts to be renewed, by Representatives Deere, Pittman, Ellis, Eplee and Karleskint.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Commerce, Labor and Economic Development: **HB 2532**.

Corrections and Juvenile Justice: **HB 2534**, **HB 2535**.

Elections: **HB 2538**, **HB 2539**.

Energy, Utilities and Telecommunications: **HB 2536**.

Federal and State Affairs: **HB 2533**.

Taxation: **HB 2537**.

Transportation: **HB 2531**.

### COMMUNICATIONS FROM STATE OFFICERS

From Marlene Nagel, Administrator to the Commission, Metropolitan Culture District, Bi-State Commission, 2016 Annual Report and Comprehensive Annual Financial Report for the Kansas and Missouri Metropolitan Culture District Commission.

From The Kansas Board of Regents, pursuant to K.S.A. 75-7226, Kan-Ed Summary Report.

From The Kansas Board of Regents, Kansas Training Information Program, K-TIP, pursuant to K.S.A. 72-4451, Annual Report, Academic Year 2016.

From The Kansas Board of Regents, report on Student Financial Aid.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

### CONSENT CALENDAR

No objection was made to **HB 2437** appearing on the Consent Calendar for the first day.

### REPORTS OF STANDING COMMITTEES

Committee on **Commerce, Labor and Economic Development** recommends **HB 2482** be passed.

Committee on **Corrections and Juvenile Justice** recommends **HB 2439** be amended on page 2, following line 5, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 21-5413 is hereby amended to read as follows: 21-5413. (a) Battery is:

(1) Knowingly or recklessly causing bodily harm to another person; or  
 (2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner.

(b) Aggravated battery is:

(1) (A) Knowingly causing great bodily harm to another person or disfigurement of another person;

(B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted;

(2) (A) recklessly causing great bodily harm to another person or disfigurement of another person; ~~or~~

(B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(3) (A) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act; or

(B) committing an act described in K.S.A. 8-1567, and amendments thereto, when

bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement or death can result from such act; or

(4) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act while;

(A) In violation of any restriction imposed on such person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A. 8-285, and amendments thereto, including at least one violation of K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute.

(c) Battery against a law enforcement officer is:

(1) Battery, as defined in subsection (a)(2), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) battery, as defined in subsection (a)(1), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

(3) battery, as defined in subsection (a) committed against a:

(A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(B) state correctional officer or employee by a person confined in such juvenile correctional facility, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(C) juvenile detention facility officer or employee by a person confined in such juvenile detention facility, while such officer or employee is engaged in the performance of such officer's or employee's duty; or

(D) city or county correctional officer or employee by a person confined in a city holding facility or county jail facility, while such officer or employee is engaged in the performance of such officer's or employee's duty.

(d) Aggravated battery against a law enforcement officer is:

(1) An aggravated battery, as defined in subsection (b)(1)(A) committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

(3) knowingly causing, with a motor vehicle, bodily harm to a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.

(e) Battery against a school employee is a battery, as defined in subsection (a), committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

(f) Battery against a mental health employee is a battery, as defined in subsection (a), committed against a mental health employee by a person in the custody of the secretary for aging and disability services, while such employee is engaged in the performance of such employee's duty.

(g) (1) Battery is a class B person misdemeanor.

(2) Aggravated battery as defined in:

(A) Subsection (b)(1)(A) or (b)(4) is a severity level 4, person felony;

- (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony;
- (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person felony; and
- (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person felony.
- (3) Battery against a law enforcement officer as defined in:
  - (A) Subsection (c)(1) is a class A person misdemeanor;
  - (B) subsection (c)(2) is a severity level 7, person felony; and
  - (C) subsection (c)(3) is a severity level 5, person felony.
- (4) Aggravated battery against a law enforcement officer as defined in:
  - (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and
  - (B) subsection (d)(2) is a severity level 4, person felony.
- (5) Battery against a school employee is a class A person misdemeanor.
- (6) Battery against a mental health employee is a severity level 7, person felony.
- (h) As used in this section:
  - (1) "Correctional institution" means any institution or facility under the supervision and control of the secretary of corrections;
  - (2) "state correctional officer or employee" means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, whose duties include working at a correctional institution;
  - (3) "juvenile detention facility officer or employee" means any officer or employee of a juvenile detention facility as defined in K.S.A. 2017 Supp. 38-2302, and amendments thereto;
  - (4) "city or county correctional officer or employee" means any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, whose duties include working at a city holding facility or county jail facility;
  - (5) "school employee" means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12;
  - (6) "mental health employee" means: (A) An employee of the Kansas department for aging and disability services working at Larned state hospital, Osawatomie state hospital, Kansas neurological institute and Parsons state hospital and training center and the treatment staff as defined in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and employees of contractors under contract to provide services to the Kansas department for aging and disability services working at any such institution or facility;
  - (7) "judge" means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;
  - (8) "attorney" means a: (A) County attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;
  - (9) "community corrections officer" means an employee of a community correctional services program responsible for supervision of adults or juveniles as

assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs; and

(10) "court services officer" means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court.";

On page 8, in line 37, after "(3)" by inserting "or (b)(4)";

On page 9, following line 29, by inserting:

"Sec. 5. K.S.A. 2017 Supp. 8-1013 is hereby amended to read as follows: 8-1013. As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments thereto, and this section:

(a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(b) (1) "Alcohol or drug-related conviction" means any of the following: (A) Conviction of vehicular battery or aggravated vehicular homicide, prior to their repeal, if the crime is committed while committing a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, ~~or~~ conviction of a violation of aggravated battery as described in ~~subsection (b)(3) of~~ K.S.A. 2017 Supp. 21-5413 (b)(3) or (b)(4), and amendments thereto, or conviction of a violation of involuntary manslaughter as described in K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto; (B) conviction of a violation of a law of another state which would constitute a crime described in subsection (b)(1)(A) if committed in this state; (C) conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (b)(1)(A), whether or not such conviction is in a court of record; or (D) conviction of an act which was committed on a military reservation and which would constitute a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or would constitute a crime described in subsection (b)(1)(A) if committed off a military reservation in this state.

(2) For the purpose of determining whether an occurrence is a first, second or subsequent occurrence: (A) "Alcohol or drug-related conviction" also includes entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging commission of a crime described in subsection (b)(1), including a diversion agreement entered into prior to the effective date of this act; and (B) it is irrelevant whether an offense occurred before or after conviction or diversion for a previous offense.

(c) "Division" means the division of vehicles of the department of revenue.

(d) "Ignition interlock device" means a device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.

(e) "Occurrence" means a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest, including an arrest which occurred prior to the effective ~~day~~ date of this act.

(f) "Other competent evidence" includes: (1) Alcohol concentration tests obtained

from samples taken three hours or more after the operation or attempted operation of a vehicle; and (2) readings obtained from a partial alcohol concentration test on a breath testing machine.

(g) "Samples" includes breath supplied directly for testing, which breath is not preserved.

(h) "Test failure" or "fails a test" refers to a person's having results of a test administered pursuant to this act, other than a preliminary screening test, which show an alcohol concentration of .08 or greater in the person's blood or breath, and includes failure of any such test on a military reservation.

(i) "Test refusal" or "refuses a test" refers to a person's failure to submit to or complete any test of the person's blood, breath, urine or other bodily substance, other than a preliminary screening test, in accordance with this act, and includes refusal of any such test on a military reservation.

(j) "Law enforcement officer" has the meaning provided by K.S.A. 2017 Supp. 21-5111, and amendments thereto, and includes any person authorized by law to make an arrest on a military reservation for an act which would constitute a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, if committed off a military reservation in this state.;

On page 15, in line 11, after "(3)" by inserting "or (b)(4)";

On page 23, in line 6, after "(3)" by inserting "or (b)(4)";

On page 26, in line 15, after "(3)" by inserting "or (b)(4)";

On page 33, in line 1, before "8-1025" by inserting "8-1013,"; also in line 1, after "21-5405," by inserting "21-5413,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "aggravated battery,"; in line 4, before "8-1025" by inserting "8-1013,"; also in line 4, before "21-6811" by inserting "21-5413,"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2488** be amended on page 3, in line 2, after "blend" by inserting ", alcohol when blended or mixed with gasoline or other inflammable liquids burned in motor vehicles"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2492** be amended on page 5, in line 39, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2552**, AN ACT concerning animal care; relating to the veterinary training program for rural Kansas; program agreements; amending K.S.A. 2017 Supp. 76-4,112 and repealing the existing section, by Committee on Agriculture.

**HB 2553**, AN ACT concerning animal care; relating to the veterinary training program for rural Kansas; increasing county population maximum; amending K.S.A. 2017 Supp. 76-4,112 and repealing the existing section, by Representative Trimmer.

**HB 2554**, AN ACT concerning sales and compensating use tax; relating to exemptions, brothers in blue re-entry program, inc.; amending K.S.A. 2017 Supp. 79-



3606 and repealing the existing section, by Representative Deere.

**HB 2555**, AN ACT concerning sales and compensating use tax; relating to exemptions, Kansas gang investigators association; amending K.S.A. 2017 Supp. 79-3606 and repealing the existing section, by Representative Deere.

On motion of Rep. Hineman, the House adjourned until 10:00 a.m., Friday, January 26, 2018.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

