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Herman T. Jones, Superintendent

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Testimony in Support of House Bill 2446
House Judiciary Committee

Presented by
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Kansas Highway Patrol

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Good afternoon Mr. Chairman and members of the committee. I am Sarah Washburn, legal counsel for the Kansas Highway Patrol, and I appreciate the opportunity to appear before you today on behalf of Colonel Herman Jones and the Patrol regarding House Bill 2446. This bill addresses some key issues faced by law enforcement agencies while collecting, maintaining, and ultimately properly disposing of evidence.

The Kansas Highway Patrol collects sizeable amounts of contraband and property as evidence to assist in the prosecution of criminals. With the current statute in place, return of property, not contraband, such as firearms, has been cumbersome due to the wide-ranging legal interpretations of what is required in K.S.A. 22-2512. While recognizing that the primary goal of K.S.A. 22-2512 is to preserve evidence for prosecutions, it is also important to address what happens when evidence is no longer needed. HB 2446 protects a citizen's rights to their property and gives clear guidance to law enforcement on how that property should be handled.

Returning property to the lawful owner is paramount, but there are situations when law enforcement agencies are unable to do that. Pursuant to *Henderson v. United States* (2015), a ruling from the United States Supreme Court, individuals who cannot lawfully possess a firearm still have an ownership interest in that firearm, if it was lawfully acquired. The changes proposed in this bill allow the Highway Patrol to respect this ownership interest, while keeping firearms out of the hands of those whose rights to possess firearms have been restricted by law.

HB 2446 also addresses concerns about the health and safety of our employees posed by storing large quantities of controlled substances. Our evidence personnel are responsible for transporting large amounts of dangerous substances such as fentanyl and methamphetamine to labs for testing or to evidence storage facilities throughout the state. By allowing law enforcement to treat drug contraband as the dangerous substance it is, we can preserve what is needed for testing and court purposes while protecting our personnel from dangerous exposure. This limits the risk of hazardous material spills as well as prevents the combustion of packages caused by pressure changes due to movement between altitudes. Storing smaller amounts of controlled substances will also limit any sicknesses that can be caused by the fumes from large quantities of these drugs concentrated in one place.

The Kansas Highway Patrol believes in treating all persons and their property with courtesy and respect. The preservation of individual dignity and constitutional rights is paramount in performing our duties. Protecting the health of coworkers and providing a safe, secure working environment are of equal importance. The Kansas Highway Patrol appreciates the opportunity to provide this testimony and fully supports HB 2446.

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