

Journal of the Senate

EIGHTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 1, 2018, 2:30 p.m.

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

The roll was called with 39 senators present.

Senator Hawk was excused.

Vice President Longbine introduced Reverent Sandra Brown, First Presbyterian Church, Topeka, who delivered the invocation:

Glorious God, we humbly ask Your blessing on these leaders and the work that they will do today. Bless them with wisdom, discernment, creativity and compassion. Help them find the gift in each and every challenge they face. And, God, give them a spirit of unity and joy in their work, for indeed it is such a great privilege to be able to make a difference in the lives of so many in this beloved land. Amen.

The Pledge of Allegiance was led by Vice President Longbine.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 348, AN ACT concerning insurance; authorizing electronic delivery as the standard method of delivery for certain health benefit plan documents; amending K.S.A. 2017 Supp. 40-5802, 40-5803 and 40-5804 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 349, AN ACT concerning the offices of the governor and lieutenant governor; relating to vacancies therein, by Senator Pyle.

SB 350, AN ACT concerning the legislature; relating to bills; providing requirement that only committees and legislators may request bills for introduction; relating to requirements for printed bills and committee minutes, inclusion of requestor, by Senators Hawk, Sykes, Alley, Baumgardner, Berger, Bollier, Bowers, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Hardy, Hensley, Holland, Kelly, Pettey, Rogers, Skubal, Taylor, Tyson and Wilborn.

SB 351, AN ACT concerning health and healthcare; relating to insurance; pharmacy benefits; enacting the Kansas pharmacy patients fair practices act, by Committee on Public Health and Welfare.

SB 352, AN ACT concerning education; relating to transportation funding for school districts from the state general fund; making and concerning appropriations for the fiscal year ending June 30, 2019, for the department of education; abolishing the general state aid transportation weighting - state highway fund, special education transportation weighting - state highway fund and career and technical education

transportation - state highway fund of the department of education, by Committee on Ways and Means.

SB 353, AN ACT concerning boiler inspections; abolishing the boiler inspection fee fund; transferring moneys to the fire marshal fee fund; amending K.S.A. 2017 Supp. 44-926, 44-931 and 75-3036 and repealing the existing sections, by Committee on Ways and Means.

SB 354, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the Gadsden flag license plate, by Committee on Transportation.

SB 355, AN ACT concerning utilities; relating to electric cooperatives; concerning the state corporation commission, regulation of charges or fees for certain transmission services; amending K.S.A. 2017 Supp. 66-104d and repealing the existing section, by Committee on Utilities.

SB 356, AN ACT concerning utilities; relating to the state corporation commission; concerning reports to the legislature; relating to electric rates, regional comparisons, recommendations, increases; amending K.S.A. 66-117 and 66-117b and repealing the existing sections, by Committee on Utilities.

SB 357, AN ACT concerning education; relating to career technical education; cost study by the department of education; amending K.S.A. 2017 Supp. 72-296 and repealing the existing section, by Committee on Education.

SB 358, AN ACT enacting the massage therapist licensure act; regulation and licensing of massage therapists; powers, duties and functions of the state board of healing arts, by Committee on Public Health and Welfare.

SB 359, AN ACT concerning racial profiling; relating to data collection by law enforcement; amending K.S.A. 2017 Supp. 22-4606, 22-4610, 22-4611 and 22-4611a and repealing the existing sections, by Committee on Judiciary.

SB 360, AN ACT concerning the open records act; relating to copies of records; disclosure of law enforcement recordings using a body camera or vehicle camera; amending K.S.A. 2017 Supp. 45-219 and 45-254 and repealing the existing sections, by Committee on Judiciary.

SB 361, AN ACT concerning law enforcement; enacting the police and citizen protection act; relating to use of body cameras by law enforcement officers; disclosure of recordings; amending K.S.A. 2017 Supp. 45-254 and repealing the existing section, by Committee on Judiciary.

SB 362, AN ACT concerning insurance; relating to property and casualty insurers; exempting labor from depreciation in certain claims, by Committee on Assessment and Taxation.

SB 363, AN ACT concerning consumer protection; relating to unconscionable acts or practices; requiring technology protection measures on internet-accessible devices; enacting the human trafficking prevention act, by Senator Fitzgerald.

SENATE CONCURRENT RESOLUTION No. SCR 1610—

By Committee on Commerce

A CONCURRENT RESOLUTION supporting and facilitating regionally competitive retail electric rates in the state of Kansas and urging the State Corporation Commission to take all lawful action to promptly set rates for retail electric service in the state of Kansas at regionally competitive levels.

WHEREAS, Rates for retail electric service in Kansas have risen significantly over the last decade; and

WHEREAS, Kansas retail electric rates are no longer competitive with rates for electric service in the surrounding region; and

WHEREAS, Kansas' regionally uncompetitive electric rates are negatively impacting the State's economic competitiveness as a location for industry and commerce; and

WHEREAS, Captive Kansas residents and businesses are economically harmed by the significantly escalating electric rates of monopoly electric public utilities, which are increasing at levels far outpacing the annual rate of inflation: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That it shall be the policy of the state of Kansas to have regionally competitive rates for retail electric service to promote economic growth and support local communities; and

Be it further resolved: That we urge the State Corporation Commission to take any and all lawful action to promptly reduce Kansas retail electric rates to regionally competitive levels; and

Be it further resolved: That, following any initiative to reduce retail electric rates, we urge the State Corporation Commission to take any and all lawful action to maintain Kansas retail electric rates at regionally competitive levels; and

Be it further resolved: That, to the extent the State Corporation Commission determines it does not have sufficient statutory authority to promptly and effectively undertake an initiative to materially reduce retail electric rates, we urge it to report to the Kansas legislature, identifying any new statutory authority that is necessary or that would assist the agency to reduce retail electric rates to regionally competitive levels; and

Be it further resolved: That the Secretary of State shall send enrolled copies of this resolution to Chairman Shari Feist Albrecht, Commissioner Jay Scott Emler and Commissioner Pat Apple of the State Corporation Commission.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 346.**

Utilities: **SB 347.**

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kerschen, Baumgardner, Berger, Billinger, Bollier, Bowers, Francisco, Goddard, Hawk, Hensley, Holland, Kelly, Petersen, Rogers, V. Schmidt, Skubal, Sykes and Wilborn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1763—

A RESOLUTION designating January 31, 2018, as MS Action Day.

WHEREAS, Multiple sclerosis (MS) is a neurological disease of the central nervous system affecting 2.3 million people worldwide; and

WHEREAS, The National Multiple Sclerosis Society – Mid America Chapter reports that more than 5,000 people are living with MS in Kansas, that the disease generally

strikes people in the prime of life, between the ages of 20 and 50, that the cause and course of the often-debilitating symptoms of MS remain unknown and that no cure currently exists; and

WHEREAS, The National Multiple Sclerosis Society has been committed for more than 70 years to a world free of MS, heightening public knowledge about and insight into the disease; and

WHEREAS, Since 1946, the National Multiple Sclerosis Society has been a driving force of MS research, relentlessly pursuing prevention, treatments and a cure, and has invested more than \$900 million in groundbreaking research; and

WHEREAS, Funds raised through the National Multiple Sclerosis Society fuel \$42.1 million in funding for 380 research projects at the best medical centers, universities and other institutions throughout the U.S. and abroad, leading to many breakthroughs in the treatment of MS; and

WHEREAS, The National Multiple Sclerosis Society's advocacy work prioritizes access to quality healthcare and prescription medication, keeping them affordable, simple and transparent for everyone who lives with MS; and

WHEREAS, Stopping MS in its tracks, restoring what has been lost, and ending MS forever is the mission of the National Multiple Sclerosis Society, and one that all Americans and Kansans should support; and

WHEREAS, The Kansas Senate recognizes the importance of finding the cause and cure of MS and expresses its appreciation for the dedication that the National Multiple Sclerosis Society – Mid America Chapter has shown toward creating a world free of MS: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate January 31, 2018, as MS Action Day, and commend this observance to all of our citizens, and encourage all Kansans to learn more about multiple sclerosis and what they can do to support individuals with MS and their families; and

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

On emergency motion of Senator Kerschen **SR 1763** was adopted unanimously.

Senators Masterson, Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle and Wilborn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1764—

A RESOLUTION opposing human trafficking and urging the dismantling of human trafficking networks.

WHEREAS, Each year in the United States, thousands of men, women and children are victims of human trafficking and are deprived of their freedom, human rights and dignity; and

WHEREAS, Human trafficking, which is modern-day slavery, takes the form of forced labor, sex trafficking and involuntary domestic servitude, in which victims are lured, forced or coerced for the purpose of commercial sex, debt bondage or forced

labor; and

WHEREAS, We, the free people of the United States of America, believe we must abolish slavery in all its forms, ensuring that every person has the right to live without fear of being recruited, harbored, transported, obtained, patronized or solicited for the purposes of sexual or labor slavery. No state is exempt from the reality of slavery today, and we must correctly identify victims and stop the sale, exploitation and slavery present in all 50 states; and

WHEREAS, We, the free people of the United States of America, believe that every man, woman and child is made in the image of God and their lives are valuable and precious to the Creator. We believe that all people have the right to live free from slavery, torture and degrading treatment; that all people should have the freedom of movement and personal security; and that no human being should be forced to commit sex or labor acts against his or her own will. Every child has the right to their innocence and should not be corrupted physically, mentally or spiritually by exposure to sexually depraved content or acts; and

WHEREAS, We, the free people of the United States of America, believe that all people who have been trafficked and enslaved have the right to safe and loving communities and a means to safely seek justice. It is our responsibility as a nation to ensure victims have access to restorative and supportive services. We must also support parents and guardians in protecting their children and, when those adults are the perpetrators, intervene to ensure children are protected; and

WHEREAS, We, the free people of the United States of America, declare war on the businesses, systems and organizations that benefit from the industry of human trafficking. We believe that those who exploit the innocent should be prevented from manipulating the system of law. The government must bring the full weight of its legal and judicial systems against individuals or organizations that seek to enslave a human being. The government must evaluate punishments for the perpetrators of human trafficking crimes to ensure they fit the level of damage that victims incur. Now, therefore,

Be it resolved by the Senate of the State of Kansas: That it is time to educate ourselves on human trafficking issues and how we may unknowingly perpetrate human trafficking through entertainment, consumerism and social media. It is time to unite in the battle against slavery – no matter our race, religion or nationality. America must link arms as one community and demand freedom for all. Finally, we declare our intentions to systematically dismantle every network and harbor that allows trafficking to flourish and to protect and safeguard every innocent person. May God have mercy on our souls should we not honor the intent and purpose of this document and may every human being enjoy freedom now; and

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

On emergency motion of Senator Masterson **SR 1764** was adopted unanimously.

Guests introduced were Barry Feaker, Hal Smith, Amber Cunningham, Jenny Falk, Terry Hund, Kevin Swift and Jennifer Montgomery, all with the Topeka Rescue Mission.

The senate honored the guests with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 263** be amended on page 1, following line 12, by inserting:

"(2) "Delta-9 tetrahydrocannabinol concentration" means the combined percentage of delta-9 tetrahydrocannabinol and its optical isomers, their salts and acids, and salts of their acids, reported as free THC on a dry weight basis, of any part of the plant cannabis sativa L.";

Also on page 1, following line 13, by inserting:

"(4) "Grower" means any person who has been approved and licensed by the department to grow or cultivate industrial hemp for the purposes of this act.";

Also on page 1, in line 16, by striking "metal" and inserting "meal"; in line 21, after "institution" by inserting ", a grower"; following line 23, by inserting:

"(7) "Person" includes an individual, partnership, corporation, association or other legal entity.";

Also on page 1, by striking all in lines 30 through 34; in line 36, after "institution" by inserting "or any grower";

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

On page 2, in line 17, by striking the second "and"; in line 19, after "research" by inserting "; and

(7) a pilot program in Russell county for the purpose of economic development and market research of industrial hemp and industrial hemp products";

Also on page 2, following line 19, by inserting:

"(b) The department shall oversee and annually license all persons participating in the cultivation, growth, research, oversight, study, analysis or transportation of certified seed or industrial hemp pursuant to this act.

(c) (1) The department shall require, as a qualification for initial or continuing licensure, all persons seeking a license or license renewal under this act to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or any other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications for initial or continuing licensure pursuant to this act and rules and regulations promulgated pursuant to this act. Disclosure or use of any information received by the department for any purpose other than the purpose provided for in this section shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.

(2) A person who has been convicted of any of the following shall be disqualified from initial or continuing licensure under this act: A felony violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act, prior to July 1, 2009.

(3) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.

(4) The applicant shall pay the costs of fingerprinting and the state and national

criminal history record check.";

Also on page 2, in line 20, by striking "have the authority to"; in line 22, after "act" by inserting "on or before December 31, 2018. Such rules and regulations shall include, but not be limited to, a requirement that license holders shall have a current license in their possession at all times that they are engaged in cultivation, growth, research, oversight, study, analysis or transportation of certified seed or industrial hemp pursuant to this act.

(e) The department shall submit a report to the legislature outlining the steps and timeline to implement a process that would allow persons to grow and process industrial hemp in Kansas and to sell industrial hemp in other states. Such report shall be submitted to the senate standing committee on agriculture and natural resources on or before January 14, 2019";

Also on page 2, in line 24, after the second "any" by inserting "state or";

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

Committee on **Ethics, Elections and Local Government** recommends **SB 264** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 283, SB 292** be passed.

Also, **SB 284** be amended on page 1, in line 33, by striking "9-2217" and inserting "9-513c"; and the bill be passed as amended.

SB 335 be amended on page 2, in line 41, by striking "under this section" and inserting "in a service corporation"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 288, SB 309, SB 310** be passed.

Also, **SB 180** be amended on page 1, in line 5, before "Section" by inserting "New"; also in line 5, by striking "candidate" and inserting "applicant"; in line 10, by striking "candidate" and inserting "applicant"; in line 13, by striking "candidate" and inserting "applicant"; also in line 13, after the second "the" by inserting "applicant's"; also in line 13, by striking "A"; in line 14, by striking "candidate" and inserting "An applicant"; in line 18, by striking "candidate" and inserting "applicant"; in line 21, after the first "the" by inserting "applicant's"; in line 27, after "(c)" by inserting "(1)"; in line 28, after "the" by inserting "applicant's"; in line 31, by striking "2017" and inserting "2018.

(2) A state or local law enforcement agency or governmental agency is required to disclose the applicant's files pursuant to subsection (b) if such files are subject to a binding nondisclosure agreement to which such agency is a party, and such agreement was executed on or after July 1, 2018, but the disclosure shall be limited to files necessary to determine the qualifications and fitness of the applicant for performance of duties in a law enforcement officer position.

(3) A state or local law enforcement agency or governmental agency may redact personally identifiable information of persons other than the applicant in files disclosed to the hiring agency";

Also on page 1, in line 35, by striking "candidate" and inserting "applicant";

On page 2, in line 19, by striking all before the period and inserting ", all complaints and all early warning information"; in line 23, after "(2)" by inserting ""Early warning information" means information from a databased management tool designed to identify officers who may be exhibiting precursors of problems on the job that can result in providing those officers with counseling or training to divert them away from conduct that may become a disciplinary matter.

(3)";

Also on page 2, in line 25, after "a" by inserting "state or local";

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

Also, on page 2, following line 30, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 45-220 is hereby amended to read as follows: 45-220. (a) Each public agency shall adopt procedures to be followed in requesting access to and obtaining copies of public records, which procedures shall provide full access to public records, protect public records from damage and disorganization, prevent excessive disruption of the agency's essential functions, provide assistance and information upon request and insure efficient and timely action in response to applications for inspection of public records.

(b) A public agency may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form. Except as otherwise provided by subsection (c), a public agency shall not require that a request contain more information than the requester's name and address and the information necessary to ascertain the records to which the requester desires access and the requester's right of access to the records. A public agency may require proof of identity of any person requesting access to a public record. No request shall be returned, delayed or denied because of any technicality unless it is impossible to determine the records to which the requester desires access.

(c) If access to public records of an agency or the purpose for which the records may be used is limited pursuant to K.S.A. 45-221 or K.S.A. 2017 Supp. 45-230, and amendments thereto, the agency may require a person requesting the records or information therein to provide written certification that:

(1) The requester has a right of access to the records and the basis of that right; or

(2) the requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

(d) A public agency shall establish, for business days when it does not maintain regular office hours, reasonable hours when persons may inspect and obtain copies of the agency's records. The public agency may require that any person desiring to inspect or obtain copies of the agency's records during such hours so notify the agency, but such notice shall not be required to be in writing and shall not be required to be given more than 24 hours prior to the hours established for inspection and obtaining copies.

(e) Each official custodian of public records shall designate such persons as necessary to carry out the duties of custodian under this act and shall ensure that a custodian is available during regular business hours of the public agency to carry out such duties.

(f) Each public agency shall provide, upon request of any person, the following information:

(1) The principal office of the agency, its regular office hours and any additional hours established by the agency pursuant to subsection (c).

(2) The title and address of the official custodian of the agency's records and of any other custodian who is ordinarily available to act on requests made at the location where

the information is displayed.

(3) The fees, if any, charged for access to or copies of the agency's records.

(4) The procedures to be followed in requesting access to and obtaining copies of the agency's records, including procedures for giving notice of a desire to inspect or obtain copies of records during hours established by the agency pursuant to subsection (c).

(g)(1) Except for requests of summary data compiled from information submitted by multiple criminal justice agencies or as otherwise provided by law, requests for records submitted to the central repository or any other repositories supporting the criminal justice information system which are maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4704 and 22-4705, and amendments thereto, shall be directed to the criminal justice agency from which the records originated.

~~(h)(2)~~ As used in this ~~section~~ subsection, the terms "central repository," "criminal justice agency" and "criminal justice information system" have the same meanings as defined in K.S.A. 22-4701, and amendments thereto.

(h) Requests for records defined as "files" pursuant to section 1, and amendments thereto, submitted to a state or local law enforcement agency or governmental agency shall be directed to the state or local law enforcement agency or governmental agency that made, maintained or kept such files, as required by section 1, and amendments thereto.

Sec. 3. K.S.A. 2017 Supp. 45-220 is hereby repealed.;

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "records" by inserting "; open records act; amending K.S.A. 2017 Supp. 45-220 and repealing the existing section"; and the bill be passed as amended.

SB 199 be amended on page 1, in line 6, by striking "2016" and inserting "2017";

On page 3, in line 24, by striking "\$25,000,000" and inserting "\$25,000,000"; in line 26, by striking "\$1,000,000" and inserting "\$2,500,000"; in line 30, by striking "\$50,000,000" and inserting "\$25,000,000";

On page 4, in line 21, by striking all after "act"; by striking all in line 22; in line 23, by striking all before the period; in line 24, by striking "2016" and inserting "2017";

On page 1, in the title, in line 2, by striking "2016" and inserting "2017"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 195** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 195," as follows:

"Substitute for SENATE BILL NO. 195

By Committee on Public Health and Welfare

"AN ACT concerning the Kansas medical assistance program; establishing a suspended eligibility status for recipients; relating to powers, duties and functions of the department of health and environment.";

And the substitute bill be passed.

Also, **SB 282** be amended on page 20, in line 26, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 256**, **SB 273** be passed.

Also, **Substitute for HB 2194** be amended on page 1, in line 6, by striking "2016" and inserting "2017";

On page 2, in line 12, after "education" by inserting "and the motorcycle safety

foundation"; in line 13, after the period by inserting "An applicant who completes a motorcycle safety curriculum shall provide a copy of the motorcycle safety foundation completion form to the division prior to receiving a class M license."; in line 15, by striking "administered by the division"; in line 19, by striking "administered by the division"; in line 21, after the period by inserting "The driving examination required by this paragraph shall be administered by the division, by the department of defense or as part of a curriculum recognized by the department of education.";

On page 5, in line 22, by striking "2016" and inserting "2017";

On page 8, in line 20, by striking "2016" and inserting "2017";

On page 1, in the title, in line 3, by striking "2016" and inserting "2017"; and the bill be passed as amended.

On motion of Senator Denning, the Senate adjourned until 8:00 a.m., Friday, February 2, 2018.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

