

# Journal of the Senate

## THIRTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, February 22, 2018, 11:00 a.m.

The Senate was called to order by Vice President Longbine.

The roll was called with 39 senators present.

Senator Suellentrop was excused.

Invocation by Reverend Cecil T. Washington:

Heavenly Father, we thank You this morning. Thank You for another day. Thank You for keeping us safe. Thank You for a reasonable portion of health and strength. Thank You for another opportunity to serve, and for a modicum of intelligence in doing so.

Lord, while there are problems that need resolving, and questions needing answers, You cautioned us, in Proverbs 3:5-7, not to rely on our limited degree of brainpower but on Your power... Your power to assist our brainpower.

When we're wise enough to know that we're not all that wise; when You show us that our understanding, falls short of understanding, let that be the driving motivation, to more urgently seek Your wisdom.

Our ability to analyze problems and reason through to successful ends can only occur through Your leading.

So Lord, by faith, we're going to trust You to enable these tiny little brains of ours, to accomplish some giant sized good as we serve You and Your people.

So, give us today, the direction and guidance we need. I'm making this appeal, in the precious name of Jesus, Amen and 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 431**, AN ACT enacting the extreme risk protective order act, by Committee on Ways and Means.

**SB 432**, AN ACT concerning STAR bonds; relating to establishment of an underwriting commission; project information on department of commerce website; project costs; STAR bond project financial viability determination; requirements for project approval; audit report; reports to legislature; amending K.S.A. 2017 Supp. 12-17,162, 12-17,164, 12-17,166, 12-17,169 and 12-17,176 and repealing the existing sections, by Committee on Assessment and Taxation.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Agriculture and Natural Resources: **HB 2729**.

Assessment and Taxation: **Sub HB2147**.

Commerce: **SB 430**.

Education: **HB 2542**.

Ethics, Elections and Local Government: **HB 2539, HB 2597, HB 2628**.

Federal and State Affairs: **HB 2465, HB 2498**.

Financial Institutions and Insurance: **HB 2448**.

Judiciary: **SB 429; HB 2088, HB 2454, HB 2479, HB 2534, HB 2551**.

Public Health and Welfare: **SB 428; HB 2501, HB 2600**.

Transportation: **HB 2486, HB 2511**.

Ways and Means: **HB 2361**.

**MESSAGES FROM THE GOVERNOR**

**SB 262** approved on February 21, 2018

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2458, HB 2459, HB 2472, HB 2477, HB 2478, HB 2480, HB 2481, HB 2509, HB 2523, HB 2524, HB 2567, HB 2568, HB 2571, HB 2579, HB 2580, HB 2583, HB 2599, HB 2603, HB 2619, HB 2648**.

Announcing passage of **Sub SB 323**.

The House accedes to the request of the Senate for a conference on **SB 217** and has appointed **Representatives Hawkins, Concannon and Murnan** as conferees on the part of the House.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2458, HB 2459, HB 2472, HB 2477, HB 2478, HB 2480, HB 2481, HB 2509, HB 2523, HB 2524, HB 2567, HB 2568, HB 2571, HB 2579, HB 2580, HB 2583, HB 2599, HB 2603, HB 2619, HB 2648** were thereupon introduced and read by title.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 263**, AN ACT concerning industrial hemp; enacting the alternative crop research act; excluding industrial hemp from definition of marijuana and cannabinoids; amending K.S.A. 2017 Supp. 21-5701, 21-5702 and 65-4105 and repealing the existing sections, was considered on final action.

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

Yeas: Alley, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Baumgardner, Pilcher-Cook, Pyle.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

## EXPLANATION OF VOTE

Mr Vice President: I have always advocated for finding new and different ways to develop economic opportunities in Kansas. This includes new opportunities for farmers. What I find unacceptable in **SB 263** is the mandate that farmers must be subjected to a Kansas Bureau of Investigation background check, finger printing – which is then maintained in the KBI database, and disqualification for planting a crop if the farmer has any prior felony convictions. I oppose **SB 263** because it unnecessarily infringes on the privacy of Kansas farmers and is punitive in a manner unlike any other economic development opportunities this body has addressed.—MOLLY BAUMGARDNER

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Baumgardner on **SB 263**.

Mr. Vice President: I vote in support of **SB 263**. As we all know the Ag Sector and Kansas farmers are experiencing severe economic hardships and are in dire need for an alternate crop. Industrial hemp provides a promise for an alternate crop. It will not necessarily be an all encompassing panacea for the ag economy but it could provide some relief. I do believe that removing “growers” from the bill will make it less robust than it could have been.—ED BERGER

Senators Bollier, Francisco, Haley, Kerschen, Lynn, Pettey and Rogers request the record to show they concur with the "Explanation of Vote" offered by Senator Berger on **SB 263**.

**SB 265**, AN ACT concerning crimes, punishment and criminal procedure; relating to crimes affecting family relationships and children; incest; amending K.S.A. 2017 Supp. 21-5604 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

**SB 303**, AN ACT concerning income taxation; relating to deductions, expense deduction; amending K.S.A. 2017 Supp. 79-32,143a and repealing the existing section, was considered on final action.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 31; Nays 8; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Fitzgerald, Givens, Goddard, Hardy, Hilderbrand, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Pettey, Rogers.

Absent or Not Voting: Suellentrop.

The bill passed.

The call was lifted.

#### EXPLANATION OF VOTE

Mr. Vice President: While I voted “AYE” on **SB 303**, I brought forth a motion yesterday to refer this bill back to committee. I support local business, but it is not the right time to be cutting taxes. We do not yet know what our revenues will be, what will be required to settle the Gannon school funding case, and what our budget needs to be for 2019. I have heard repeatedly from our leadership that we cannot bring forward a Medicaid Expansion bill for a hearing because we don’t know what our revenues will be, and yet, the \$21 million fiscal note on **SB 303** would nearly meet the \$25 million price tag for Medicaid expansion. If we are truly listening to our small businesses, we must bring forward and pass Medicaid expansion; a few of my local chambers were clear that they would gladly wait for the tax changes of **SB 303** if we could put that money into Medicaid expansion.—BARBARA BOLLIER

Senator Kelly request the record to show she concurs with the "Explanation of Vote" offered by Senator Bollier on **SB 303**.

Mr. Vice President: I vote “NO” on **Senate Bill 303**. In 2013 state lawyers argued in Gannon that “the coming limitation of the state’s resources require the Legislature to make difficult appropriation decisions.” At the same time they were making this argument, Republican legislators approved **HB 2117**, which cut income taxes by one billion dollars in the first year. The trial panel concluded that the state’s argument was “completely illogical” given these massive income tax cuts. Five years later, we are taking a first step on the same path. While there are those who complain how more money for schools will damage other parts of the budget, the first bill of significant cost to the budget is a tax cut, thereby reducing general fund revenues by \$21 million in the first year and \$10 million every year thereafter. I’m quite certain that if other revenue reducing measures pass this session, the Kansas Supreme Court will question the sincerity of those who say they can’t meet the adequacy test in Gannon because they wanted to protect other parts of the budget. For those reasons, I vote “NO” on **Senate Bill 303**.—ANTHONY HENSLEY

Senators Faust-Goudeau, Hawk, Pettey and Rogers request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 303**.

Mr. Vice President: I vote "NO" on **Senate Bill 303**. I support small business and I support tax fairness, but I do not support this bill right now. My support of this bill is evident by the fact that I made the motion to send this bill out of committee. However, I never anticipated that we would take action this soon. I don't see how this body can justify this small business tax cut when we don't know what we're going to do to address our underfunded public schools. Our first priority should be school finance. This body should not have considered any tax bill until we have solved the school finance issue. Small businesses not only want tax fairness, they want their children and the children of their employees and the children of their customers to attend fully funded schools. This bill could have waited. For these reasons, I vote "NO" on **Senate Bill 303**.—TOM HOLLAND

Senators Hawk, Pettey and Rogers request the record to show they concur with the "Explanation of Vote" offered by Senator Holland on **SB 303**.

Mr. Vice President: I vote "aye" on **SB 303** with the following caveat. As the Senate Commerce Committee continues to produce business best practice applications in our major economic development programs, we are also preparing the same solutions to our 6.2B in tax exemptions and credits as outlined in a recent Legislative Post Audit Report and PEW Research Institute as presented to the Interim Committee on Commerce held this summer. Those reports revealed that Kansas is one of 5 States in the nation with no regularly scheduled oversight and evaluation. In addition, there is currently no policy in place directing the legislature regarding eligibility parameters. We must be held accountable for providing taxpayers, who ultimately pay for these credits, Kansas best practice solutions as modeled in business and in other States.—JULIA LYNN

**SB 311**, AN ACT concerning reports of abuse; relating to abuse, neglect or exploitation of certain adults; emergency medical services personnel; amending K.S.A. 2017 Supp. 39-1402 and 39-1431 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

**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, 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

**SB 351**, AN ACT concerning health and healthcare; relating to insurance; pharmacy benefits; enacting the Kansas pharmacy patients fair practices act, 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

**SB 386**, AN ACT concerning the behavioral sciences regulatory board; relating to professional counselors; licensure; educational requirements; amending K.S.A. 2017 Supp. 65-5804a and 65-5807 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

**SB 398**, AN ACT concerning the Kansas state board of cosmetology; relating to cosmetology; licensure; senior status license; requirements; amending K.S.A. 2017 Supp. 65-1904 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

**SB 410**, AN ACT concerning insurance; relating to captive insurance companies; providing for association captive insurance companies, branch captive insurance companies and special purpose insurance captives; rules and regulations; amending K.S.A. 40-4301, 40-4302, 40-4303, 40-4304, 40-4306, 40-4307, 40-4308, 40-4309, 40-4310, 40-4311, 40-4313, 40-4314, 40-4317 and 40-4318 and repealing the existing sections; also repealing K.S.A. 40-4305 and 40-4316, 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: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Hilderbrand.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

**Sub SB 414**, AN ACT concerning agriculture; relating to eggs; repackaging requirements for retailers; amending K.S.A. 2017 Supp. 2-2510 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The substitute bill passed.

**HB 2439**, AN ACT concerning crimes, punishment and criminal procedure; relating to involuntary manslaughter; aggravated battery; involving certain violations of driving under the influence of alcohol or drugs; amending K.S.A. 2017 Supp. 8-262, 8-2,144, 8-1013, 8-1025, 8-1567, 21-5405, 21-5413, 21-6811, 38-2312 and 75-52,148 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

## COMMITTEE OF THE WHOLE

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

On motion of Senator Baumgardner the following report was adopted:

**SB 185, SB 264, SB 309** be passed.

**SB 405** be amended by motion of Senator Francisco; on page 2, in line 10, after "any" by inserting "building,";

On page 1, in the title, in line 2, following the second semicolon by inserting "confined feeding facilities;" and **SB 405** be passed as amended.

A motion by Senator Holland to amend **SB 405** failed. and the following amendment was rejected;on page 1, following line 5, by inserting:

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

On roll call, the vote was: Yeas 9; Nays 25; Present and Passing 5; Absent or Not Voting 1.

Yeas: Bollier, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Lynn, Rogers.

Nays: Alley, Berger, Billinger, Bowers, Denning, Doll, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, V. Schmidt, Skubal, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Baumgardner, Haley, Kelly, Pettey, Sykes.

Absent or Not Voting: Suellentrop.

Two additional motions by Senator Francisco to amend **SB 405** failed.

**SB 279, SB 281, SB 374**, be amended by the adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Denning to further amend **SB 279** failed.

A motion by Senator Haley to amend **SB 374** failed.

**SB 336** be amended by the adoption of the committee amendments, be further amended by motion of Senator Petersen; on page 3, in line 37, after "who" by inserting "knowingly"

**SB 336** be further amended by motion of Senator Pilcher-Cook; on page 4, in line 41, after the period by inserting "Nothing in this subsection shall require the Kansas bureau of investigation to expunge and destroy any samples or profile record associated with the claimant that was submitted pursuant to K.S.A. 21-2511(a), and amendments thereto, related to any offense other than the offense for which the court has entered a certificate of innocence." and **SB 336** be passed as further amended.

A motion by Senator Pilcher-Cook to amend **SB 336** failed.

A motion by Senator Haley to amend **SB 336** failed.

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

On motion of Senator Denning an emergency was declared by a 2/3 constitutional majority, and **SB 185, SB 264, SB 279, SB 281, SB 309, SB 336, SB 374, SB 405** were advanced to Final Action and roll call.

**SB 185**, AN ACT concerning economic development; relating to redevelopment districts encompassing federal enclaves; authorization of franchises for the provision of utilities.

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

Yeas: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

**SB 264**, AN ACT concerning elections; relating to application and ballot signature requirements for disabled voters; amending K.S.A. 2017 Supp. 25-1122, 25-1124 and 25-1128 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

#### **EXPLANATION OF VOTE**

Mr. Vice President: I Vote “Yes” on **SB 264**. Intentionally this legislation didn't get much media attention. And, sometimes when this body doesn't receive a lot of emails or phone calls from our Constituents in support or in opposition for a bill, we call it a simple bill. However, I know for a fact! that the 23 Disabled and Elderly Kansas Voters in Sedgwick County who thought their Votes were counted when we elected new City Council and School Board Members in Wichita only to find out later that their advanced ballots were tossed out and disqualified by County Commissioners in a recent election on November 7th, 2017 Thinks it's a Big Deal! And, I do too! Because Mr. Vice President I believe, that in order for Democracy to truly work! Every vote must count! And, on behalf of the 23 citizens in Wichita I appreciate each Senators Vote today for **SB 264**.—OLETHA FAUST-GOUDEAU

**SB 279**, AN ACT concerning utilities; relating to the gas safety reliability surcharge, definitions; amending K.S.A. 2017 Supp. 66-2202, 66-2203 and 66-2204 and repealing the existing sections.

On roll call, the vote was: Yeas 32; Nays 6; Present and Passing 1; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bowers, Doll, Estes, Faust-Goudeau, Fitzgerald, Givens, Goddard, Haley, Hardy, Hawk, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wilborn.

Nays: Bollier, Denning, Hensley, Hilderbrand, Holland, Wagle.

Present and Passing: Francisco.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

**SB 281**, AN ACT concerning protection orders; relating to the protection from abuse act; the protection from stalking, sexual assault or human trafficking act; amending K.S.A. 2017 Supp. 21-5924, 60-3104, 60-31a01, 60-31a02, 60-31a03, 60-31a04, 60-31a05, 60-31a06, 60-31a07, 60-31a08 and 60-31a09 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

**SB 309**, AN ACT concerning the judicial branch; relating to docket fees; disposition of docket fees for the fiscal years ending June 30, 2020, and June 30, 2021; amending K.S.A. 2017 Supp. 20-362 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson,

Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed.

**SB 336**, AN ACT concerning civil actions; relating to wrongful conviction and imprisonment; compensation; tuition assistance; state health care benefits program; amending K.S.A. 2017 Supp. 75-6117 and 75-6501 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: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

#### EXPLANATION OF VOTE

Mr. Vice President: I vote “Aye” on **SB 336** which provide compensation for the wrongfully incarcerated. There should be no opposition to this bill and should have been none to a similar House bill which passed their Final Action, 122-1, today. Many States and the federal system ALREADY have some automatic formula for compensating an innocent party who is the victim of having liberty stolen; exonerated and left without reparation. As member of Claims Against the State, I attest exonorees come for redress and are left to patchworks of resolution; seldom equitable or complete. When I first sponsored bills on this subject (alone, of course) a decade ago and several Sessions since (most recently in 2017 as **SB 125** which was referred to Kansas Judicial Council for “study”), the State’s perpetrating of such miscarriages of justice were seldom well known or publicized. Today, poignant examples enhance public awareness; retaining its’ shock and disappointment tinged by tragic ironies. **SB 336** is a far superior measure and, among other advocates, I especially thank the Innocence Project / civil rights worker Alvin Sykes for promoting it. Harry Truman said “It’s amazing how much you can get accomplished, if you don’t care who gets the credit.” But it truly IS theirs.—DAVID HALEY

**SB 374**, AN ACT concerning driving under the influence; relating to testing; administrative penalties; crimes, punishment and criminal procedure; amending K.S.A. 8-2,137 and K.S.A. 2017 Supp. 8-2,144, 8-1001, 8-1012, 8-1013, 8-1024, 8-1567, 65-1,107 and 75-712h and repealing the existing sections; also repealing K.S.A. 2017 Supp. 8-1025.

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

Yeas: 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, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

**SB 405**, AN ACT concerning the department of health and environment; relating to animal conversion units; poultry facilities; confined feeding facilities; amending K.S.A. 2017 Supp. 65-171d and repealing the existing section.

On roll call, the vote was: Yeas 29; Nays 10; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Lynn, Rogers.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

#### EXPLANATION OF VOTE

Mr. Vice President: I vote nay on **SB 405** despite the fact that I strongly support the expansion of our agricultural economy. The bill does reflect recent improvements in technology and permits increased productivity. However, the bill lacks a clause that would allow local communities to participate in the decision to have such facilities in their midst. It is for that reason that I vote nay. —STEVE FITZGERALD

Mr. Vice President: I vote NO on **SB 405**. I agree that a lower conversion equivalent for animal units should be set for laying hens or broilers if the facility has a dry manure process. I would like to see, however, the legislature consider the comparable amounts of nitrogen and phosphorus produced because they are the chief non-point source contaminants in water pollution. And because Kansas does not allow counties to have zoning requirements for agricultural use, I think appropriate setback distances from property lines should be set in statute along with the separation distances required from habitable structures. County residents may be able to have a say in the economic and environmental impacts of a hatchery, feed mill and processing plant but will have none over the sets of barns where 333,000 chickens could be raised, especially those built in neighboring counties. It is unfortunate that this bill passed in its current form without including all of the amendments that were offered. —MARCI FRANCISCO

Mr. Vice President: Big poultry is coming home to roost in Kansas. Too bad the Kansas Senate chickened out today by not giving their constituents a voice as to where industrial poultry CAFOs can be located. I vote "NO" on **SB 405**.—TOM HOLLAND

Mr Vice President: I have long supported Agriculture – my entire career was in that industry. I know how this industry finances these kind of businesses and farm operations. Successful operations are very concerned about their relationship with neighbors but poor operators can wreak havoc in a rural or suburban community. Operators do need a certain size of operation to make a profit, however, 2 million birds annually per CAFO affects a neighbor's quality of life and our shared resources. There is risk of significant turnover in ownership as they struggle to make money. The end result is that the neighbor that erects the barns is often not the current operator. Adopting the proposed amendments – local control and size of operation – would have

made the bill more palatable but they failed. I hope our livestock industry is ready to help these farm operators know what they are getting in to. We must balance the needs of regular Kansans as well as Agri-business. It is unfortunate this bill passed in its current form.—LYNN ROGERS

Senators Faust-Goudeau, Hawk, Holland and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Rogers on **SB 405**.

#### **CHANGE OF REFERENCE**

Under the authority of the President, Vice President Longbine withdrew **SB 429** from the Committee on **Judiciary**, and referred the bill to the Committee on **Assessment and Taxation**.

#### **MESSAGE FROM THE HOUSE**

Announcing adoption of **HCR 5026**, A CONCURRENT RESOLUTION relating to the adjournment of the senate and house of representatives for a period of time during the 2018 regular session of the legislature, was introduced and read by title.

On emergency motion of Senator Denning, **HCR 5026** was adopted by voice vote.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Wednesday, February 28, 2018.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

