

# Journal of the Senate

FORTY-EIGHTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 26, 2019, 10:00 a.m.

The Senate was called to order by Vice President Jeff Longbine.  
The roll was called with 39 senators present.  
Senator Wagle was excused.  
Invocation by Reverend Cecil T. Washington:

Heavenly Father, we come before You today with much to do. There are so many needs to address. We truly need Your direction. What to prioritize, which way to go, what to let go, what should be on the list and what will others think of my list. Lord, Your guidance is needed here.

We're serving here and we're serving over there. Sometimes it feels like we're serving everywhere. Yet, in the midst of all the hustle and bustle, that quiet comforting voice of Your Spirit comes through reminding us that You've got this! If we make Your business our business, You will make our business Your business. And You can do more with our business than we can.

You said in Matthew 6:19-34, that if we give priority to treating Your Name with reverence to advancing the rule of Your Kingdom for Your will to be done; if we treasure as first priority Your will and Your way, there'll be nothing for us to worry about. For just as You provide for the birds of the air and the lilies of the field, we can know that You'll provide for us.

So keep us focused, Lord, on Your priorities for Your glory and for our good. I thank You, Father, for hearing the prayer of one of Your kids. In Jesus' Name, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**SB 236**, AN ACT concerning sales taxation; relating to countywide retailers' sales tax, ballot authority, rate limitations, apportionment; amending K.S.A. 2018 Supp. 12-187, 12-189 and 12-192 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:

Financial Institutions and Insurance: **HB 2041**.  
Public Health and Welfare: **HB 2066**, **HB 2082**.  
Transportation: **HB 2179**.

**CONSIDERATION OF APPOINTMENTS**

In accordance with Senate Rule 55, the following appointments, submitted by the Governor to the Senate for confirmation were considered.

Senator Denning moved the following appointments be confirmed as recommended by the Committee on **Assessment and Taxation** and the Committee on **Transportation**.

*By the Governor*

On the appointment to the:

*Department of Revenue:*

Mark Burghart, At the pleasure of the governor

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Nays: Doll.

Absent or Not Voting: Wagle.

The appointment was confirmed.

*By the Governor*

On the appointment to the:

*Department of Transportation:*

Julie Lorenz, At the pleasure of the governor

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Nays: Doll.

Absent or Not Voting: Wagle.

The appointment was confirmed.

**FINAL ACTION ON CONSENT CALENDAR**

**HB 2188, HB 2201**, having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

**HB 2188**, AN ACT concerning the dissolution of taxing entities; providing for the dissolution of the White Clay watershed district no. 26; relating to the tax lid; amending K.S.A. 2018 Supp. 79-2925c 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson,

Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed.

**HB 2201**, AN ACT concerning the department of health and environment; relating to powers, duties and functions; tuberculosis program; updating statutory references necessitated by 2012 executive reorganization order no. 41; amending K.S.A. 65-116i, 65-116k, 65-116l and 65-116m 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed.

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

**SB 210**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; eligible employees; direct support positions of community developmental disability organizations; amending K.S.A. 74-4911 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed.

**S Sub HB 2007**, AN ACT concerning transportation; relating to toll projects; authorizing certain toll projects for new projects or expanded capacity; required approval from local units of government, the Kansas turnpike authority and the state finance council; changing toll project financing requirements; amending K.S.A. 68-2001, 68-2002, 68-2004, 68-2008, 68-20,120 and 68-2301 and repealing the existing sections, was considered on final action.

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Nays: Pilcher-Cook.

Absent or Not Voting: Wagle.

The substitute bill be passed as amended.

**HB 2084**, AN ACT concerning the Kansas 911 act; relating to emergency services; 911 fees, collection and distribution; amending K.S.A. 2018 Supp. 12-5363, 12-5364, 12-5365, 12-5366, 12-5367, 12-5368, 12-5369, 12-5370, 12-5371, 12-5372, 12-5373, 12-5374, 12-5375, 12-5376, 12-5377, 12-5378, 12-5380 and 19-101a and repealing the existing sections; also repealing K.S.A. 2018 Supp. 12-5327, 12-5338 and 12-5361, 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, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Ware, Wilborn.

Nays: Hilderbrand, Pilcher-Cook, Tyson.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**HB 2085**, AN ACT concerning water; relating to public water supply systems; municipal loans; reinstatement of rural water district benefit units; amending K.S.A. 65-163i and K.S.A. 2018 Supp. 82a-621 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**HB 2101**, AN ACT concerning financial institutions; relating to credit unions; enacting the state credit union code; amending K.S.A. 17-2201, 17-2203, 17-2204a, 17-2207, 17-2209, 17-2214, 17-2215, 17-2217, 17-2226, 17-2229, 17-2230, 17-2231 and 17-2268 and K.S.A. 2018 Supp. 17-2202, 17-2204, 17-2206, 17-2208, 17-2210, 17-2211, 17-2216, 17-2216a, 17-2219, 17-2221a, 17-2228, 17-2233, 17-2234, 17-2246 and 17-2263 and repealing the existing sections; also repealing K.S.A. 17-2224, 17-2225 and 17-2242, 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed.

**HB 2103**, AN ACT concerning children and minors; relating to the revised Kansas code for care of children; placement of a child in a qualified residential treatment

program; amending K.S.A. 2018 Supp. 23-2210, 38-2202, 38-2234 and 38-2264 and repealing the existing sections; also repealing K.S.A. 2017 Supp. 38-2202, as amended by section 9 of chapter 107 of the 2018 Session Laws of Kansas, 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**HB 2104**, AN ACT concerning driving under the influence; relating to testing; notice; preliminary screening; amending K.S.A. 2018 Supp. 8-1001, 8-1012, 8-2118 and 75-712h and repealing the existing sections; also repealing K.S.A. 2018 Supp. 8-1025, 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed.

#### EXPLANATION OF VOTE

Mr. Vice President: I VOTE “AYE” ON **HB 2104** REGARDING DUI TESTING AND PRELIMINARY SCREENING. Assuming the House has well vetted this bill (leading to its’ unanimous passage there), I trust that this Legislature has reconciled some of the Supreme Court’s rationale in suspected driving under the influence cases where the driver refuses to take the “breathalyzer” and automatically faced criminal sanctions; prior to the Supreme Courts overturning the measure on constitutional grounds. This bill appears to yet prescribe, for the same refusal, administrative sanctions including, but not limited to, suspension for first time DUI offenders. I hesitate to support a first-time potential DUI offender’s loss of driving privileges for simply wishing to invoke a fifth Amendment to the Constitution right against self-incrimination by refusing to take a breathalyzer test. To compound this offense, I continue to hope we undo the travesty, undergirded by an “ignition interlock” industry committed not so much to public safety but more to its’ bottom-line, that has perverted the original intent of Kansas’ DUI laws that offered an OPTION to a first-time DUI offender to drive with ignition interlock during suspension into a MANDATORY ignition interlock sentence before license privileges are restored. So unnecessary and needlessly expensive.—DAVID HALEY

**HB 2177**, AN ACT concerning insurance; relating to fixed index annuity contracts; accounting treatment of certain derivative instruments; risk-based capital requirements;

version of instructions in effect; amending K.S.A. 2018 Supp. 40-2c01 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**HB 2203**, AN ACT concerning retirement and pensions; relating to the Kansas public employee retirement system; employment after retirement; exempting individuals employed by the Kansas academies of the United States department of defense STARBASE program; certain retirants from penalties; authorizing reimbursement of certain suspended retirement benefits; amending K.S.A. 74-4914 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**S Sub HB 2214**, AN ACT concerning motor vehicles; relating to registration fees; electric and hybrid vehicles; amending K.S.A. 2018 Supp. 8-143 and repealing the existing section, 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, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Rucker, Skubal, Suellentrop, Sykes, Taylor, Ware, Wilborn.

Nays: Hilderbrand, Pyle, Tyson.

Absent or Not Voting: Wagle.

The substitute bill passed.

**HB 2215**, AN ACT concerning the Kansas state fair board; authorizing the board to establish a nonprofit corporation for the benefit of the state fair; amending K.S.A. 74-520a 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: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware,

Wilborn.

Present and Passing: Francisco.

Absent or Not Voting: Wagle.

The bill passed.

#### EXPLANATION OF VOTE

Mr. Vice President: I vote "PASS" on **HB 2215**. I believe that if we allow the creation of this non-profit corporation for the benefit of the Kansas State Fair, at a minimum we should require that corporation to adopt written investment guidelines prior to making any investments.—**MARCI FRANCISCO**

**HB 2246**, AN ACT concerning motor vehicles; relating to distinctive license plates; changing the requirements for distinctive and educational institution license plate production; providing for the proud educator, alpha kappa alpha, knights of Columbus and current and veteran members of the United States army, navy, marine corps, air force and coast guard license plates; amending K.S.A. 2018 Supp. 8-1,141, 8-1,142 and 8-1,147 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, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The bill passed, as amended.

#### 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 Masterson in the chair.

Senator Braun also assumed the chair.

**SB 218, SB 228, SB 235; HB 2125** be passed.

**HB 2038** be amended by motion of Senator Wilborn; on page 4, following line 16, by inserting:

"(i) This section shall be a part of and supplemental to the Kansas probate code."; and the bill be passed as amended.

**HB 2031, HB 2033, HB 2070, HB 2087, HB 2119, HB 2140, HB 2144, HB 2160, HB 2168, HB 2087, HB 2223** be amended by the adoption of the committee amendments, and the bills be passed as amended.

**SB 232** be amended by the adoption of the committee amendments, be further amended by motion of Senator Berger; on page 4, in line 41, by striking all after the comma; in line 42, by striking all before "has"; and the bill be passed as further amended.

**HB 2248** be amended by the adoption of the committee amendments, be further amended by motion of Senator Braun; on page 1, in line 23, after "(a)" by inserting "(1)";

On page 2, in line 15, after "(a)" by inserting "(1)"; and the bill be passed as further amended.

The committee report on **HB 2225** recommending **S Sub HB 2225** be adopted, and the substitute bill be passed.

The Committee rose and reported progress (See Committee of the Whole afternoon session.)

On motion of Senator Denning the senate recessed until 2:00

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The Senate met pursuant to recess with Vice President Longbine in the chair.

#### AFTERNOON SESSION

#### COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole with Senator Braun in the chair.

On motion of Senator Braun the report for the morning and the following afternoon session was adopted.

**HB 2185** be amended by the adoption of the committee amendments, be passed over and retain a place on the calendar.

**SB 104, SB 108, HB 2199** be passed over and retain a place on the calendar.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2018, HB 2054, HB 2137, HB 2173, HB 2274, HB 2307, HB 2314, HB 2389, HB 2396.**

Announcing passage of **SB 60, SB 68, SB 71, SB 82, SB 90, SB 94, SB 97, SB 128, SB 199.**

Also, announcing passage of **SB 15**, as amended; **SB 16**, as amended by House **Substitute** for **SB 16; SB 18**, as amended; **SB 20**, as amended; **SB 25**, as amended by House Substitute for **SB 25; SB 28**, as amended; **SB 53**, as amended; **SB 63**, as amended; **SB 66**, as amended; **SB 67**, as amended; **SB 69**, as amended; **SB 77**, as amended, **SB 78**, as amended.

The House concurs in Senate amendments to **HB 2035.**

The House nonconcurrs in Senate amendments to **HB 2126**, requests a conference and has appointed Representatives Proehl, Thimesch and Helgerson as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2209**, requests a conference and has appointed Representatives Vickrey, Cox and Neighbor as conferees on the part of the House.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2018, HB 2054, HB 2137, HB 2173, HB 2274, HB 2307, HB 2314, HB 2389, HB 2396** were thereupon introduced and read by title.

#### CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator Petersen the Senate nonconcurrred in the House amendments to **SB 63** and requested a conference committee be appointed.



The Vice President appointed Senators Petersen, Goddard and Pettey as a conference committee on the part of the Senate.

Senator Masterson moved the Senate concur in House amendments to **Sub SB 69**.

**Sub SB 69**, AN ACT concerning electric utilities; requiring a study of electric rates; relating to the legislative coordinating council; state corporation commission.

On roll call, the vote was: Yeas 37; Nays 1; Present and Passing 1; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Nays: Pyle.

Present and Passing: Francisco.

Absent or Not Voting: Wagle.

The Senate concurred.

#### EXPLANATION OF VOTE

Mr. Vice President: I VOTE "AYE" AGAIN ON **SUBSTITUTE FOR SB 69 AS AMENDED TECHNICALLY BY THE HOUSE**: As stated in my Explanation of Vote on this bill at first passage (Journal 3/14/19), the Board of Public Utility (BPU)related amendment offered to this bill failed on voice vote. It would simply allow any customer-ratepayer of a BPU, typically a municipally-operated utility, to write our Kansas Corporation Commission (KCC) for information pertaining to rule, charge, practice or procedure "and to require the KCC to provide information to such customer whether such rule, change, practice or procedure differs, and to what extent, for customers of electric utilities that ARE regulated by KCC. Without such a provision, the KCKS BPU is still able to indiscriminately keep heinous policies in play without an "apple-to-apple" comparison as to how such practices are implemented to other Kansas utilities which our KCC DOES regulate. But this underlying substitute bill surprisingly DOES opt to include the KCKS BPU; one of several municipal utilities chosen to be included in the study! Vowing continuance to bring KCC access to the KCKS BPU ratepayers one day, this future study, however small in its' impact on us in KCKS, is step in that direction acknowledging that ALL Kansas utility consumers deserve neutral response and review to patterns and practices.—DAVID HALEY

#### REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **HB 2039, HB 2191, HB 2206 HB 2211, HB 2281** be passed,

Also, **SB 219** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 219," as follows:

"Substitute for SENATE BILL NO. 219

By Committee on Judiciary

"AN ACT concerning consumer protection; relating to the scrap metal theft reduction act; creating the scrap metal data repository fund; scrap metal transaction requirements;

dealer registration; amending K.S.A. 2018 Supp. 50-6,109a, 50-6,110, 50-6,112a and 50-6,112b and repealing the existing sections."; and the substitute bill be passed.

**SB 157** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2018 Supp. 23-3211 is hereby amended to read as follows: 23-3211. As used in article 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto:

(a) "Temporary parenting plan" means an agreement or order issued defining the legal custody, residency and parenting time to be exercised by parents with regard to a child between the time of filing of a matter in which a parenting plan may be entered, and any other provisions regarding the child's care which may be in the best interest of the child, until a final order is issued.

(b) "Permanent parenting plan" means an agreement between parents which is incorporated into an order at a final hearing or an order or decree issued at a final hearing without agreement that establishes legal custody, residency, parenting time and other matters regarding a child custody arrangement in a matter in which a parenting plan may be entered.

(c) "Legal custody" means the allocation of parenting responsibilities between parents, or any person acting as a parent, including decision making rights and responsibilities pertaining to matters of child health, education and welfare.

(d) "Joint legal custody" means that both parents retain the decision-making authority for the most important issues affecting a child's life, including health, education and welfare, and neither parent has the right to decide such matters without receiving input from or consulting with the other parent.

(e) "Parenting time" means the schedule of time when each parent has actual physical access to a child, during which the scheduled parent is responsible for the physical care and supervision of the child.

(f) "Equal parenting time" means that a child's actual physical access to each parent is regular and equal or nearly equal.";

Also on page 1, in line 17, after "(c)" by inserting "(1) If there is presentation of documentation or other information by a parent that would support a finding of good cause that domestic abuse has occurred or is occurring, there shall be a presumption that it is not in the best interests of the child for the parents to have temporary joint legal custody and share equally in parenting time.

(2)";

Also on page 1, in line 19, after "joint" by inserting "legal";

On page 2, in line 7, after "Supp." by inserting "23-3211 and"; also in line 7, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "Supp." by inserting "23-3211 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

**HB 2048**, as amended by House Committee, be amended on page 3, in line 26, by striking "(i)"; also in line 26, by inserting after the comma "the felony crime shall be classified as follows:

(i) ";

On page 4, in line 11, after "felony" by inserting "offense that resulted in the"; in line 13, by striking "that resulted in the out-of-state conviction"; in line 22, after "as" by inserting "a"; also in line 22, after "nonperson" by inserting "felony"; in line 23, by

striking all after "offense"; in line 24, by striking "adjudication";

On page 5, by striking all in lines 25 and 26; following line 26, by inserting:

"Sec. 2. K.S.A. 2018 Supp. 21-6820 is hereby amended to read as follows: 21-6820. (a) A departure sentence is subject to appeal by the defendant or the state. The appeal shall be to the appellate courts in accordance with rules adopted by the supreme court.

(b) Pending review of the sentence, the sentencing court or the appellate court may order the defendant confined or placed on conditional release, including bond.

(c) On appeal from a judgment ~~or of~~ conviction entered for a felony committed on or after July 1, 1993, the appellate court shall not review:

(1) Any sentence that is within the presumptive sentence for the crime; or

(2) any sentence resulting from an agreement between the state and the defendant which the sentencing court approves on the record.

(d) In any appeal from a judgment of conviction imposing a sentence that departs from the presumptive sentence prescribed by the sentencing grid for a crime, sentence review shall be limited to whether the sentencing court's findings of fact and reasons justifying a departure:

(1) Are supported by the evidence in the record; and

(2) constitute substantial and compelling reasons for departure.

(e) In any appeal from a judgment of conviction, the appellate court may review a claim that:

(1) A sentence that departs from the presumptive sentence resulted from partiality, prejudice, oppression or corrupt motive;

(2) the sentencing court erred in either including or excluding recognition of a prior conviction or juvenile adjudication for criminal history scoring purposes; or

(3) the sentencing court erred in ranking the crime severity level of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(f) The appellate court may reverse or affirm the sentence. If the appellate court concludes that the trial court's factual findings are not supported by evidence in the record or do not establish substantial and compelling reasons for a departure, it shall remand the case to the trial court for resentencing.

(g) The appellate court shall issue a written opinion whenever the judgment of the sentencing court is reversed. The court may issue a written opinion in any other case when it is believed that a written opinion will provide guidance to sentencing judges and others in implementing the sentencing guidelines adopted by the Kansas sentencing commission. The appellate courts may provide by rule for summary disposition of cases arising under this section when no substantial question is presented by the appeal.

(h) A review under summary disposition shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required unless ordered by the appellate court and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(i) The sentencing court shall retain authority irrespective of any notice of appeal for 90 days after entry of judgment of conviction to modify its judgment and sentence to correct any arithmetic or clerical errors.

(j) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 3. K.S.A. 2018 Supp. 22-3504 is hereby amended to read as follows: 22-3504.  
 (†) (a) The court may correct an illegal sentence at any time while the defendant is serving such sentence. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. Unless the motion and the files and records of the case conclusively show that the defendant is entitled to no relief, the defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

(⇒)(b) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

(⇒)(c) For the purposes of this section:

(1) "Illegal sentence" means a sentence: Imposed by a court without jurisdiction; that does not conform to the applicable statutory provision, either in character or punishment; or that is ambiguous with respect to the time and manner in which it is to be served at the time it is pronounced. A sentence is not an "illegal sentence" because of a change in the law that occurs after the sentence is pronounced.

(2) "Change in the law" means a statutory change or an opinion by an appellate court of the state of Kansas, unless the opinion is issued while the sentence is pending an appeal from the judgment of conviction.

(d) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

New Sec. 4. If any provision or provisions of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or provisions or application, and to this end the provisions of this act are severable.;"

Also on page 5, in line 27, by striking "and" and inserting a comma; also in line 27, after "21-6811c" by inserting ", 21-6820 and 22-3504";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "appeal of sentence; correction of sentence;"; in line 4, after "6811" by inserting ", 21-6820 and 22-3504"; and the bill be passed as amended.

**HB 2279**, as amended by House Committee, be amended on page 1, following line 6, by inserting:

"New Section 1. (a) (1) An applicant shall not be denied tenancy on the basis of, or as a direct result of, the fact that the applicant is, has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking, if the applicant otherwise qualifies for tenancy in or occupancy of the premises.

(2) A tenant or lessee shall not be evicted from the premises or found to be in violation of a rental or lease agreement on the basis of, or as a direct result of, the fact that the tenant or lessee is, has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking, if the tenant or lessee otherwise qualifies for tenancy in or occupancy of the premises.

(b) (1) A tenant or lessee shall not be liable for rent for the period after which the tenant or lessee vacates the premises that are the subject of the rental or lease agreement

if the tenant or lessee:

(A) Is, has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking; and

(B) notifies the landlord or property owner as required in subsection (c).

(2) In any action brought against a tenant or lessee under Kansas law that seeks recovery of rent, the tenant or lessee shall have an affirmative defense and not be liable for rent for the period after which the tenant or lessee vacates the premises that are the subject of the rental or lease agreement if, by preponderance of the evidence, the court finds that the tenant or lessee:

(A) Was a victim or was in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking; and

(B) notified the landlord or property owner as required in subsection (c).

(c) An applicant, tenant or lessee qualifies for the protections under this section if the applicant, tenant or lessee provides a statement regarding domestic violence, sexual assault, human trafficking or stalking to the landlord or property owner. If the landlord or property owner requests, the applicant, tenant or lessee shall provide documentation of the domestic violence, sexual assault, human trafficking or stalking, which may be in any of the following forms:

(1) A document signed by the victim and any of the following individuals from whom the victim has sought assistance relating to domestic violence, sexual assault, human trafficking or stalking, or the effects of such abuse: (A) An attorney; (B) an employee, agent or volunteer of a victim service provider; or (C) a healthcare professional or mental health professional. The document must declare under penalty of perjury that the individual believes in the occurrence of the incident of domestic violence, sexual assault, human trafficking or stalking that is the ground for protection and that the incident meets the applicable definition of domestic violence, sexual assault, human trafficking or stalking; or

(2) a record pertaining to the alleged incident of domestic violence, sexual assault, human trafficking or stalking that is the ground for protection from: (A) A court; or (B) a federal, state or local law enforcement agency, including, but not limited to, a police report.

(d) The submission of false information by an applicant, tenant or lessee under this section may be a basis for a denial of tenancy, eviction or a violation of a rental or lease agreement.

(e) A landlord or property owner may impose a reasonable termination fee not to exceed one month's rent on a tenant or lessee who requests termination of a rental or lease agreement under the provisions of this section before the expiration date of such agreement. Such termination fee may only be imposed if it is contained in the terms of the rental or lease agreement.

(f) As used in this section, "domestic violence," "human trafficking," "sexual assault" and "stalking" mean the same as in K.S.A. 2018 Supp. 75-452, and amendments thereto.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the second semicolon and inserting "victims of domestic violence, sexual assault, human trafficking or stalking; relating to housing protections; requiring law enforcement to provide information to victims when an arrest is made for a

domestic violence offense"; and the bill be passed as amended.

**HB 2290**, as amended by House Committee, be amended on page 1, following line 7, by inserting:

"New Section 1. (a) Notwithstanding any provision of the Kansas tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, or any other provision of law to the contrary, the attorney general may refuse to provide legal representation to or indemnification of a public agency or employee or agent of a public agency in an action, proceeding or investigation involving an alleged violation of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of K.S.A. 75-6108(d), and amendments thereto, shall not apply to a refusal under this section.

(b) This section shall be a part of and supplemental to the open records act.

New Sec. 2. (a) Notwithstanding any provision of the Kansas tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, or any other provision of law to the contrary, the attorney general may refuse to provide legal representation to or indemnification of a public agency or employee or agent of a public agency in an action, proceeding or investigation involving an alleged violation of the Kansas open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. The provisions of K.S.A. 75-6108(d), and amendments thereto, shall not apply to a refusal under this section.

(b) This section shall be a part of and supplemental to the open meetings act.

New Sec. 3. (a) The attorney general shall appoint a Kansas victim information and notification everyday (VINE) coordinator, and within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator.

(b) The Kansas VINE coordinator shall work with interested parties, including, but not limited to, the sheriffs throughout the state, to oversee the implementation and operation of the VINE system throughout the state.

(c) The attorney general may appoint an advisory board to make recommendations for the implementation and operation of the VINE program. Such advisory committee, if appointed, may consist of up to five members appointed by the attorney general. One member shall be a victim advocate and one shall be a representative of the Kansas sheriffs' association. Except as provided in K.S.A. 75-3212, and amendments thereto, no member of any such advisory committee shall receive any compensation, subsistence, mileage or other allowance for serving on an advisory board appointed pursuant to this section.

(d) The attorney general shall promulgate rules and regulations necessary to carry out the provisions of this section.";

On page 3, in line 8, by striking "1" and inserting "4";

On page 6, in line 2, by striking "1" and inserting "4"; in line 33, by striking "1" and inserting "4";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "relating to legal representation or indemnification in alleged violations of the open records act or the open meetings act; creating a statewide Kansas victim information and notification everyday (VINE) coordinator;"; and the bill be passed as amended.

**HB 2365** be amended on page 2, in line 29, by striking "2020" and inserting "2024"; in line 31, by striking "2020" and inserting "2024"; by striking all in lines 32 through 37; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 231** be passed.

Also, **SB 234** be amended on page 1, in line 5, by striking all after "(a)"; by striking all in lines 6 through 17; in line 18, by striking all before the period and inserting "Every prescription order issued for a controlled substance in schedules II-V that contains an opiate, as described in the uniform controlled substances act, shall be transmitted electronically, unless:

(1) Electronic prescription orders are not possible due to technological or electronic system failures;

(2) electronic prescribing is not available to the prescriber due to economic hardship or technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances exist as demonstrated by the prescriber;

(3) the prescription order is for a compounded preparation containing two or more components or requires information that makes electronic submission impractical, such as complicated or lengthy instructions for use;

(4) the prescription order is issued by a licensed veterinarian;

(5) the prescriber reasonably determines that it would be impractical for the patient to obtain the substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition;

(7) the prescription order is issued pursuant to drug research or drug therapy protocols;

(8) the prescription order is by a prescriber who issues 50 or fewer prescription orders per year for controlled substances that contain opiates; or

(9) the United States food and drug administration requires the prescription order to contain elements that are not compatible or possible with electronic prescriptions";

Also on page 1, in line 35, by striking all after "(c)"; by striking all in line 36;

On page 2, by striking all in lines 1 and 2; in line 3, by striking "(d)"; in line 6, by striking "January 1, 2020" and inserting "July 1, 2021"; and the bill be passed as amended.

## REPORT ON ENROLLED BILLS

**SB 40, SB 41, SB 59** reported correctly enrolled, properly signed and presented to the Governor on March 26, 2019.

On motion of Senator Denning the Senate recessed to the sound of the gavel.

The Senate met pursuant to recess with Senator Hardy in the chair.

On motion of Senator Denning the senate adjourned until 10:00 a.m., Wednesday, March 27, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

