

# Journal of the Senate

FORTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 27, 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 Senator Tom Hawk:

As a high school student I went to my first church camp at Scott Lake and was exposed to the spiritual song "Kumbaya." Someone's singing Lord, Kumbaya. Someone's laughing Lord, Kumbaya. Someone's crying Lord, Kumbaya. Someone's praying Lord, Kumbaya. Each a beautiful verse, easy to sing. For me it was a time of great hope and optimism. One of my recent daily devotionals reminded me of that word, it's history, and that special time. For my prayer today, I want to share some of that hope found in Psalms 33:22.

Let us pray: Let your steadfast love, O Lord, be upon us, even as we hope in you. Come by here, my Lord, somebody's missing, Lord, come by here. We all need you, Lord, come by here. Lord look down from heaven, as it says in this old song, and see all humankind. Creator God, you know it all, while we can only hope. And, God, it can seem ridiculous at times...That hope can feel impossible and maybe even more absurd than sitting around a campfire singing "Kumbaya."

But Lord, in the old songbook of the church, hope is more than issues and ideas. Hope is where we find you God. Hope is where we realize that someone is missing. Someone is crying. We need to find our hope in God and we ask you Lord to come by here.

Sing with us, O God, Kumbaya. Amen.

The Pledge of Allegiance was led by Vice President Longbine.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. **SCR 1610**—

By Committee on Federal and State Affairs

A PROPOSITION to amend the constitution of the state of Kansas by revising article 3 thereof, relating to the judiciary.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:*

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 3 of the constitution of the state of Kansas is hereby revised to read as follows:

**"Article 3.—JUDICIAL"**

**"§ 1. Judicial power; seals; rules.** The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, one court of appeals, district courts, and such other courts as are provided by law; and all courts of record shall have a seal. The supreme court shall have general administrative authority over all courts in this state.

**"§ 2. Supreme court.** The supreme court shall consist of not less than seven justices who shall be selected as provided by this article. All cases shall be heard with not fewer than four justices sitting and the concurrence of a majority of the justices sitting and of not fewer than four justices shall be necessary for a decision. The term of office of the justices shall be six years except as hereinafter provided. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period, the senior in age of these shall be chief justice. A justice may decline or resign from the office of chief justice without resigning from the court. Upon such declination or resignation, the justice who is next senior in continuous term of service shall become chief justice. During incapacity of a chief justice, the duties, powers and emoluments of the office shall devolve upon the justice who is next senior in continuous service.

**"§ 3. Jurisdiction and terms.** The supreme court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus; and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the state.

**"§ 4. Reporter; clerk.** There shall be appointed, by the justices of the supreme court, a reporter and clerk of such court, who shall hold their offices for two years, and whose duties shall be prescribed by law.

**"§ 5. Selection of justices of the supreme court.** (a) (1) Any vacancy occurring in the office of any justice of the supreme court and any position to be open on the supreme court as a result of enlargement of such court, or the retirement or failure of an incumbent to file such justice's declaration of candidacy to be retained in office as hereinafter required, or failure of a justice to be elected to be retained in office, shall be filled by appointment by the governor, with the consent of the senate, of a person possessing the qualifications of office.

(2) Whenever a vacancy occurs, will occur or a position opens on the supreme court, the clerk of the supreme court shall promptly give notice to the governor.

(3) In the event of the failure of the governor to make the appointment within 60 days from the date such vacancy occurred or such position became open, the chief justice of the supreme court, with the consent of the senate, shall make the appointment of a person possessing the qualifications of office.

(4) Whenever a vacancy in the office of justice of the supreme court exists at the time the appointment to fill such vacancy is made pursuant to this section, the appointment shall be effective at the time it is made, but where an appointment is made

pursuant to this section to fill a vacancy that will occur at a future date, such appointment shall not take effect until such date.

(b) No person appointed pursuant to subsection (a) shall assume the office of justice of the supreme court until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 60 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 60-day time limitation, the senate shall vote to consent to any such appointment not later than 20 days after the senate begins its next session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 60 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office, and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to such appointment.

(c) (1) Each justice of the supreme court appointed pursuant to subsection (a) and consented to pursuant to subsection (b) shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of 12 months in office.

(2) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any justice of the supreme court, the justice may file in the office of the secretary of state a declaration of candidacy for retention in office. If a declaration is not filed as provided in this section, the position held by the justice shall be vacant upon the expiration of the justice's term of office. If such declaration is filed, the justice's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows: "Shall (Here insert name of justice.), Justice of the Supreme Court, be retained in office?"

(3) If a majority of those voting on the question vote against retaining the justice in office, the position that the justice holds shall be vacant upon the expiration of the justice's term of office. Otherwise, unless the justice is removed for cause, the justice shall remain in office for the regular term of six years from the second Monday in January following the election. At the expiration of each term, unless by law the justice is compelled to retire, the justice shall be eligible for retention in office by election in the manner prescribed in this section.

(4) If a majority of those voting on the question vote against the justice's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such justice who has not been retained in office pursuant to this section shall not be eligible for appointment to the office of justice of the supreme court prior to the expiration of six years after the expiration of the justice's term of office.

**§ 6. Court of appeals.** (a) (1) The court of appeals shall consist of 14 judges whose positions shall be numbered one through 14. The court of appeals shall be a part of the court of justice in which the judicial power of the state is vested by section 1 of

this article and shall be subject to the general administrative authority of the supreme court. The court of appeals shall have such jurisdiction over appeals in civil and criminal cases and from administrative bodies and officers of the state as may be prescribed by law, and shall have such original jurisdiction as may be necessary to the complete determination of any cause on review. During the pendency of any appeal, the court of appeals, on such terms as may be just, may make an order suspending further proceedings in the court below until the decision of the court of appeals.

(2) Any vacancy occurring in the office of any judge of the court of appeals and any position to be open on the court of appeals as a result of enlargement of such court, or the retirement or failure of an incumbent to file such judge's declaration of candidacy to be retained in office as hereinafter required, or failure of a judge to be elected to be retained in office, shall be filled by appointment by the governor, with the consent of the senate, of a person possessing the qualifications of office.

(3) Whenever a vacancy occurs, will occur or a position opens on the court of appeals, the clerk of the supreme court shall promptly give notice to the governor.

(4) In the event of the failure of the governor to make the appointment within 60 days from the date such vacancy occurred or such position became open, the chief justice of the supreme court, with the consent of the senate, shall make the appointment of a person possessing the qualifications of office.

(5) Whenever a vacancy in the office of judge of the court of appeals exists at the time the appointment to fill such vacancy is made pursuant to this section, the appointment shall be effective at the time it is made, but where an appointment is made pursuant to this section to fill a vacancy which will occur at a future date, such appointment shall not take effect until such date.

(b) No person appointed pursuant to subsection (a) shall assume the office of judge of the court of appeals until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 60 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 60-day time limitation, the senate shall vote to consent to any such appointment not later than 20 days after the senate begins its next session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 60 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office, and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to such appointment.

(c) (1) Each judge of the court of appeals appointed pursuant to subsection (a) and consented to pursuant to subsection (b) shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of 12 months in office.

(2) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any judge of the court of appeals, the judge may file in the office of the secretary of state a declaration of candidacy for retention in office. If a

declaration is not filed as provided in this section, the position held by the judge shall be vacant upon the expiration of the judge's term of office. If such declaration is filed, the judge's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows: "Shall (Here insert name of judge.), Judge of the Court of Appeals, be retained in office?"

(3) If a majority of those voting on the question vote against retaining the judge in office, the position that the judge holds shall be vacant upon the expiration of the judge's term of office. Otherwise, unless the judge is removed for cause, the judge shall remain in office for the regular term of four years from the second Monday in January following the election. At the expiration of each term, unless by law the judge is compelled to retire, the judge shall be eligible for retention in office by election in the manner prescribed in this section.

(4) If a majority of those voting on the question vote against the judge's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such judge who has not been retained in office pursuant to this section shall not be eligible for appointment to the office of judge of the court of appeals prior to the expiration of four years after the expiration of the judge's term of office.

(d) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

"§ 7. **District courts.** (a) The state shall be divided into judicial districts as provided by law. Each judicial district shall have at least one district judge. The term of office of each judge of the district court shall be four years. District court shall be held at such times and places as may be provided by law. The district judges shall be elected by the electors of the respective judicial districts unless the electors of a judicial district have adopted and not subsequently rejected a method of nonpartisan selection. The legislature shall provide a method of nonpartisan selection of district judges and for the manner of submission and resubmission thereof to the electors of a judicial district. A nonpartisan method of selection of district judges may be adopted, and once adopted may be rejected, only by a majority of electors of a judicial district voting on the question at an election in which the proposition is submitted. Whenever a vacancy occurs in the office of district judge, it shall be filled by appointment by the governor until the next general election that occurs more than 30 days after such vacancy, or as may be provided by such nonpartisan method of selection.

(b) The district courts shall have such jurisdiction in their respective districts as may be provided by law.

(c) The legislature shall provide for clerks of the district courts.

(d) Provision may be made by law for judges pro tem of the district court.

(e) The supreme court or any justice thereof shall have the power to assign judges of district courts temporarily to other districts.

(f) The supreme court may assign a district judge to serve temporarily on the supreme court.

(g) The supreme court or the court of appeals may assign a district judge to serve temporarily on the court of appeals.

"§ 8. **Qualifications of justices and judges.** Justices of the supreme court, judges of the court of appeals and judges of the district courts shall be at least 30 years of age

and shall be duly authorized by the supreme court of Kansas to practice law in the courts of this state and shall possess such other qualifications as may be prescribed by law.

**"§ 9. Prohibition of political activity by justices and certain judges.** No justice of the supreme court who is appointed or retained under the procedure of section 5 of this article, nor any judge of the court of appeals who is appointed or retained under the procedure of section 6 of this article, nor any judge of the district court holding office under a nonpartisan method authorized in section 7(a) of this article, shall directly or indirectly make any contribution to or hold any office in a political party or organization or take part in any political campaign.

**"§ 10. Extension of terms until successor qualified.** All judicial officers shall hold their offices until their successors shall have qualified.

**"§ 11. Compensation of justices and judges; certain limitation.** The justices of the supreme court, judges of the court of appeals and judges of the district courts shall receive for their services such compensation as may be provided by law, which shall not be diminished during their terms of office, unless by general law applicable to all salaried officers of the state. Such justices or judges shall receive no fees or perquisites nor hold any other office of profit or trust under the authority of the state, or the United States except as may be provided by law, or practice law during their continuance in office.

**"§ 12. Removal of justices and judges.** Justices of the supreme court may be removed from office by impeachment and conviction as prescribed in article 2 of this constitution. In addition to removal by impeachment and conviction, justices may be retired after appropriate hearing, upon certification to the governor, by the supreme court that such justice is so incapacitated as to be unable to perform adequately such justice's duties. Other judges shall be subject to retirement for incapacity, and to discipline, suspension and removal for cause by the supreme court after appropriate hearing.

**"§ 13. Savings clause.** Nothing contained in this amendment to the constitution shall: (a) Shorten the term of office or abolish the office of any justice of the supreme court, any judge of the court of appeals, any judge of the district court, or any other judge of any other court who is holding office at the time this amendment becomes effective, or who is holding office at the time of adoption, rejection, or resubmission of a nonpartisan method of selection of district judges as provided in section 7(a) of this article, and all such justices and judges shall hold their respective offices for the terms for which elected or appointed, unless sooner removed in the manner provided by law; (b) repeal any statute of this state relating to the supreme court, the supreme court nominating commission, the court of appeals, district courts, or any other court, or relating to the justices or judges of such courts, and such statutes shall remain in force and effect until amended or repealed by the legislature."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

*"Explanatory statement.* The purpose of this amendment is to place the law concerning the court of appeals into the constitution and to do away with the supreme court nominating commission. The governor will appoint a qualified person, or if the governor fails to act, the chief justice of the supreme court would appoint a qualified person, and such person's appointment would require the consent of the senate. If the

senate does not consent to the appointment by a majority vote, the governor would then appoint another qualified person, and such person's appointment would again go to the senate for consent. The same appointment and consent procedure would be followed until a valid appointment is made. If the senate fails to vote on an appointment within 60 days, it will be considered that the senate has given consent to the appointment.

"A vote for this proposition would provide a procedure whereby the governor or chief justice would appoint a person to be a supreme court justice or court of appeals judge, and the senate, by majority vote, would consent to the appointment of the supreme court justice or court of appeals judge.

"A vote against this proposition would continue the current system in which justices of the supreme court are appointed by the governor from a list of three individuals submitted by the supreme court nominating commission, and judges of the court of appeals are appointed by the governor, with the consent of the senate."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2020, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

#### **CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR**

On motion of Senator Olson the Senate nonconcurrred in the House amendments to **SB 15** and requested a conference committee be appointed.

The Vice President appointed Senators Olson, Billinger and Ware as a conference committee on the part of the Senate.

On motion of Senator Baumgardner the Senate nonconcurrred in the House amendments to **H Sub SB 16** and requested a conference committee be appointed.

The Vice President appointed Senators Baumgardner, Denning and Hensley as a conference committee on the part of the Senate.

On motion of Senator Wilborn the Senate nonconcurrred in the House amendments to **SB 18** and requested a conference committee be appointed.

The Vice President appointed Senators Wilborn, Rucker and Miller as a conference committee on the part of the Senate.

On motion of Senator Wilborn the Senate nonconcurrred in the House amendments to **SB 20** and requested a conference committee be appointed.

The Vice President appointed Senators Wilborn, Rucker and Miller as a conference committee on the part of the Senate.

On motion of Senator McGinn the Senate nonconcurrred in the House amendments to **H Sub SB 25** and requested a conference committee be appointed.

The Vice President appointed Senators McGinn, Billinger and Hawk as a conference committee on the part of the Senate.

On motion of Senator Olson the Senate nonconcurrred in the House amendments to **SB 28** and requested a conference committee be appointed.

The Vice President appointed Senators Olson, Billinger and Ware as a conference

committee on the part of the Senate.

On motion of Senator Olson the Senate nonconcurred in the House amendments to **SB 66** and requested a conference committee be appointed.

The Vice President appointed Senators Olson, Billinger and Ware as a conference committee on the part of the Senate.

On motion of Senator Olson the Senate nonconcurred in the House amendments to **SB 67** and requested a conference committee be appointed.

The Vice President appointed Senators Olson, Billinger and Ware as a conference committee on the part of the Senate.

On motion of Senator Wilborn the Senate nonconcurred in the House amendments to **SB 78** and requested a conference committee be appointed.

The Vice President appointed Senators Wilborn, Rucker and Miller as a conference committee on the part of the Senate.

### ORIGINAL MOTION

On motion of Senator Petersen, the Senate acceded to the request of the House for a conference on **HB 2126**.

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

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **HB 2209**.

The Vice President appointed Senators Olson, Billinger and Ware as conferees on the part of the Senate.

### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 218**, AN ACT concerning children and minors; relating to reporting of certain abuse and neglect; duly ordained minister of religion; amending K.S.A. 2018 Supp. 38-2223 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.

### EXPLANATION OF VOTE

Mr. Vice President: I vote "AYE" on **Senate Bill 218** - Sheldon's Law. Kansas' mandatory reporting law currently includes teachers, social workers, firefighters, police, psychologists, therapists, and many other professionals, but it does not include clergy. **Senate Bill 218** would include them on that list. Clergy leadership are adults that children and their parents must be able to trust to keep them safe. **Senate Bill 218** mandates that duly ordained ministers of religion report suspected abuse or neglect to authorities. This bill provides a much-needed layer of protection for Kansas children in our houses of worship.—TOM HOLLAND



Senators Francisco, Haley and Hawk request the record to show they concur with the "Explanation of Vote" offered by Senator Holland on **SB 218**.

**SB 228**, AN ACT concerning insurance; relating to third party administrators; license and renewal application fees; amending K.S.A. 2018 Supp. 40-3812, 40-3813 and 40-3814 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 bill passed.

**SB 232**, AN ACT concerning adult care homes; relating to licensure; receivership; financial solvency; amending K.S.A. 39-955, 39-956, 39-957 and 39-959 and K.S.A. 2018 Supp. 39-923, 39-927, 39-931, 39-931a, 39-958, 39-960, 39-961 and 39-963 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.

**SB 235**, AN ACT concerning education; relating to the statewide levy; homestead exemption; capital improvement state aid demand transfer; amending K.S.A. 72-5142 and 72-5462 and K.S.A. 2018 Supp. 79-201x 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.

**HB 2031**, AN ACT concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; definition of service-connected; amending K.S.A. 74-4952 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 2033**, AN ACT concerning sales and compensating use tax; relating to countywide retailers' sales tax, {rates}, election, Finney county, director of taxation; amending K.S.A. 2018 Supp. 12-187 and 12-189 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 2038**, AN ACT concerning inheritance rights; relating to revocation upon divorce, 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 bill passed, as amended.

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.

**HB 2070**, AN ACT concerning roads and highways; designating a portion of United States highway 75 as the John Armstrong memorial highway and a bridge on United States highway 77 as the SGT Kevin A. Gilbertson memorial bridge; amending K.S.A. 68-1051 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 2087**, AN ACT concerning motor vehicles; relating to windshields and windows; installation of light screening material; amending K.S.A. 2018 Supp. 8-1749a 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 2119**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; powers and duties of the board of trustees; developing procedures for procurement of goods and services; making and entering into certain contracts; authorizing travel for trustees and employees of the system; amending K.S.A. 74-4909 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 2125**, AN ACT concerning drivers' licenses; relating to the operation of a motor vehicle; requiring licensees to promptly deliver driver's license upon demand; amending K.S.A. 8-244 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.

**HB 2140**, AN ACT concerning retirement and pensions; relating to the Kansas deferred retirement option program act; including agents of the Kansas bureau of

investigation as members; extending sunset date; amending K.S.A. 74-49861, 74-4986p and 74-4986r 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 2144**, AN ACT concerning community colleges; relating to publication of financial information; identification of transferable credits; amending K.S.A. 71-301 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 2160**, AN ACT concerning sales and compensating use tax; relating to countywide retailers' sales tax; election, Dickinson, Jackson, Russell, Thomas and Wabaunsee counties; exemptions, sales of certain coins or bullion; amending K.S.A. 2018 Supp. 12-187, 12-189 and 79-3606 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 2168**, AN ACT concerning state property; relating to Kansas state university and the university of Kansas; authorizing the state board of regents to sell and convey certain real property in Riley, Douglas and Saline counties, 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 2223**, AN ACT concerning alcoholic beverages; relating to producer licenses; amending K.S.A. 2018 Supp. 41-308a and 41-355 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.

**Sub HB 2225**, AN ACT regulating traffic; relating to oversize and overweight vehicles, permit fees; escort vehicle service, registration; amending K.S.A. 2018 Supp. 8-1911 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35; Nays 4; 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, Rucker, Skubal, Suellentrop, Sykes, Taylor, Ware, Wilborn.

Nays: Hilderbrand, Pilcher-Cook, Pyle, Tyson.

Absent or Not Voting: Wagle.

The substitute bill passed.

**HB 2248**, AN ACT concerning motor vehicles; relating to all-terrain and work-site utility vehicles; allowing vehicles to operate on a federal or state highway under certain conditions; amending K.S.A. 2018 Supp. 8-15,100 and 8-15,109 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 Suellentrop in the chair.

**HB 2191** be passed.

An amendment was offered by Senator Haley. A ruling of the chair was requested as

to the germaneness to the bill. The Rules Committee ruled the amendment not germane.

**SB 108** be amended by the adoption of the committee amendments, be further amended by motion of Senator Miller; on page 4, following line 18, by inserting:

"Sec. 3. K.S.A. 2018 Supp. 21-6815 is hereby amended to read as follows: 21-6815. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of K.S.A. 2018 Supp. 21-6817(b), and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction, except that this factor shall not apply to a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, or electronic solicitation as defined in K.S.A. 2018 Supp. 21-5509, and amendments thereto, when: (i) The victim is less than 14 years of age and the offender is 18 or more years of age; or (ii) the offender hires any person by giving, or offering to or agreeing to give, anything of value to the person to engage in an unlawful sex act.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(F) The offender committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America. As used in this subsection, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2018 Supp. 21-6630, and amendments thereto.

(2) Subject to the provisions of subsection (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

(i) Commit any person felony;

(ii) assist in avoiding detection or apprehension for commission of any person felony; or

(iii) attempt, conspire or solicit, as defined in K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization;

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age;

(d) aggravated human trafficking, as defined in K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; or

(e) commercial sexual exploitation of a child, as defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

- (1) Any evidence received during the proceeding;
- (2) the presentence report;
- (3) written briefs and oral arguments of either the state or counsel for the defendant; and
- (4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

- (1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;
- (2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;
- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and
- (5) the timeliness of the defendant's assistance.";

Also on page 4, in line 19, by striking "and" and inserting a comma; also in line 19, before "are" by inserting "and 21-6815";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, before "amending" by inserting "departure sentencing; mitigating factors;"; also in line 4, by striking "and" and inserting a comma; in line 5, before "and" by inserting "and 21-6815"; and **SB 108** be passed as further amended.

**SB 104** be amended by the adoption of the committee amendments, be further amended by motion of Senator Tyson; on page 1, in line 8, before "Section" by inserting "New"; in line 11, before "Sec." by inserting "New"; in line 29, before "Sec." by inserting "New";

On page 2, in line 17, before "Sec." by inserting "New";

On page 3, in line 39, before "Sec." by inserting "New";

On page 4, in line 17, before "Sec." by inserting "New"; following line 18, by



inserting:

"New Sec. 7. The provisions of sections 7 through 23, and amendments thereto, shall be known as and may be cited as the golden years homestead property tax freeze act. The purpose of this act shall be to provide refunds arising from increased ad valorem tax assessments to: (a) Certain persons who are of qualifying age and who own their homesteads; or (b) certain persons who have a disability as a result of military service and who own their homesteads.

New Sec. 8. As used in this act:

(a) "Act" means the golden years homestead property tax freeze act.

(b) "Base year" means the year in which an individual becomes an eligible claimant and who is also eligible for a claim for refund pursuant to section 22, and amendments thereto. For any individual who would otherwise be an eligible claimant prior to 2018, such base year shall be deemed to be 2018 for the purposes of this act. In the event an individual is no longer an eligible claimant under this act, the individual shall establish a new base year in the year that the individual becomes an eligible claimant.

(c) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in section 9, and amendments thereto, both domiciled in this state and was: (1) A person who is 65 years of age or older; or (2) a disabled veteran. The surviving spouse of a person 65 years of age or older or a disabled veteran who was receiving benefits pursuant to this section at the time of the claimant's death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

(d) "Disabled veteran" means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or the Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from a disease contracted while in such active service.

(e) "Homestead" means the dwelling, or any part thereof, owned and occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes one or more joint tenants or tenants in common.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to who the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision shall be final.

(f) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as married individuals who together occupy a homestead.

(g) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(h) "Income" means the sum of adjusted gross income under the Kansas income tax act effective for tax year 2019, and tax years thereafter, without regard to any maintenance, support money, cash public assistance and relief, not including any refund

granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including, but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income, such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who, prior to attaining full retirement age, had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of loss of time insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions or disability payments received under the federal social security act.

(i) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 2018 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are levied when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead for only a part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in that year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homesteads during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes that is equal to the percentage of the value of the homestead compared to the total unit's value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

New Sec. 9. The right to file a claim under this act may be exercised on behalf of a claimant by such person's legal guardian, conservator or attorney-in-fact. When a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to another member of the household as determined by the director of taxation. If the claimant was the only member of such person's household, the claim may be paid to such person's executor or administrator, but if neither is appointed and qualified, the amount of the claim may be paid upon a claim duly made to any heir at law. In the absence of any such claim within two years of the filing of the claim, the amount of the claim shall escheat to the state. When a person who would otherwise be entitled to file a claim under the provisions of this act dies prior to filing such claim, another member of

such person's household may file such claim in the name of such decedent, subject to the deadline prescribed by section 11, and amendments thereto, and the director shall pay the amount to which the decedent would have been entitled to such person filing the claim. If the decedent was the only member of such person's household, the decedent's executor or administrator may file such claim in the name of the decedent, and the claim shall be paid to the executor or administrator. In the event that neither an executor or administrator is appointed and qualified, such claim may be made by any heir at law and the claim shall be payable to such heir at law. Any of the foregoing provisions shall be applicable in any case where the decedent dies in the calendar year preceding the year in which a claim may be made under the provisions of this act, if such decedent was a resident of or domiciled in this state during the entire part of such year that such decedent was living. Where the decedent's death occurs during the calendar year preceding the year in which a claim may be made, the amount of the claim that would have been allowable if the decedent had been a resident of or domiciled in this state the entire calendar year of such person's death shall be reduced in a proportionate amount equal to a fraction of the claim otherwise allowable, the numerator of which fraction is the number of months in such calendar year following the month of the decedent's death, and the denominator of which is 12.

New Sec. 10. A claimant may claim property tax relief under this act with respect to property taxes accrued and, after audit by the director of taxation with respect to this act, the allowable amount of such claim shall be paid, except as otherwise provided in sections 12, 21 and 23, and amendments thereto, to the claimant from the income tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by any person designated by the claimant, but no warrant issued shall be drawn in an amount of less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

New Sec. 11. Except as provided in section 20, and amendments thereto, no claim in respect of property taxes levied in any year shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were levied.

New Sec. 12. The amount of any claim otherwise payable under this act may be applied by the director of taxation against any liability outstanding on the books of the department of revenue against the claimant, or against any other individual who was a member of such person's household in the year that the claim relates.

New Sec. 13. Only one claimant per household per year shall be entitled to relief under this act.

New Sec. 14. (a) Commencing in tax year 2019, and all tax years thereafter, the amount of any claim pursuant to this act shall be computed by deducting the homestead ad valorem tax amount in the tax year the refund is sought from the amount of a claimant's base year homestead ad valorem tax amount.

(b) The amount of claim shall be computed only to the nearest \$1.

(c) A taxpayer shall not be eligible for a claim pursuant to this act if such taxpayer has received for such property for such tax year either: (1) A homestead property tax refund pursuant to K.S.A. 79-4501 et seq., and amendments thereto; or (2) the selective assistance for effective senior relief (SAFESR) credit pursuant to K.S.A. 2018 Supp. 79-32,263, and amendments thereto.

New Sec. 15. In administering this act, the director of taxation shall make available

suitable forms with instructions for claimants. Copies of such forms shall also be made available to all county clerks and county treasurers in sufficient numbers to supply claimants residing in their respective counties. It shall be the duty of the county clerk to assist any claimant seeking assistance in the filing of a claim under the provisions of this act. The county treasurer of each county shall mail to each taxpayer, with the property tax statement of such taxpayer, information on eligibility for relief under this act to be provided by the secretary of revenue.

The secretary of revenue is hereby authorized to adopt such rules and regulations as may be necessary for the administration of the provisions of this act.

New Sec. 16. (a) Every claimant under this act shall supply to the director of taxation, in support of a claim, reasonable proof of age and changes of homestead, household membership, household income, household assets and size and nature of property claimed as the homestead.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the director of taxation, in support of a claim, the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant. Upon request by the director, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) The information required to be furnished under subsection (b) shall be in addition to that required under subsection (a).

New Sec. 17. In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid, the amount paid may be recovered by assessment as income taxes are assessed, and such assessment shall bear interest from the date of payment or credit of the claim, until recovered, at the rate of 1% per month. The claimant in such case and any person who assisted in the preparation or filing of such excessive claim, or supplied information upon which such excessive claim was prepared, with fraudulent intent, shall be guilty of a class B misdemeanor. In any case in which it is determined that a claim is or was excessive and was negligently prepared, 10% of the corrected claim shall be disallowed, and, if the claim has been paid, the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed, and such assessment shall bear interest at the rate of 1% per month from the date of payment until recovered. In any case in which it is determined that a claim is or was excessive due to the fact that the claimant neglected to include certain income received during the year, the claim shall be corrected and the excess disallowed, and, if the claim has been paid, the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed.

New Sec. 18. No claim for relief under the provisions of this act shall be allowed to any claimant who is a recipient of public funds specifically designated for the payment of taxes during the period for which the claim is filed.

New Sec. 19. A claim shall be disallowed if the director of taxation finds that the claimant received title to such person's homestead primarily for the purpose of receiving benefits under this act.

New Sec. 20. For claims in respect to property taxes levied in any year, the director of taxation may extend the time for filing any claim or accept a claim filed after the filing deadline when good cause exists, if the claim has been filed within four years of the deadline.

New Sec. 21. (a) The director of taxation shall issue to the county clerk by October 15 of each year an electronic record containing the name of each eligible claimant who received a refund of property taxes under this act for the prior year.

(b) When initially filing a claim under this act, the claimant shall be given an election to receive such refund directly from the director of taxation or have such refund applied to the claimant's ad valorem taxes in the county. The claimant shall make the election on a form supplied by the director of taxation. Such refund shall not be applied to any special assessment.

(c) After the electronic record under subsection (a) has been received from the director of taxation, the county clerk of the county in which the property is located shall make any corrections needed, if any, based upon information known by the county clerk concerning any change in eligibility of any claimant listed in such record. After any needed corrections have been made to the electronic record, the county clerk, on behalf of each claimant listed in such record, shall certify the information contained in such record to the county treasurer in lieu of paying that portion of the first half of taxes on the claimant's homestead in the current year, which equals the amount of the golden years homestead property tax freeze refund received by the claimant for taxes levied in the preceding year up to the amount of the first half of the property taxes due.

(d) The county treasurer shall certify and return the electronic record referred to in subsection (a), including any changes made by the county clerk pursuant to subsection (c), to the director of taxation by December 31 of each year. After receiving a claim of any claimant who is listed in the electronic record submitted by the county treasurer, the director shall examine the same, and, if the claim is valid, the director of accounts and reports shall draw a warrant in favor of the county in which the claimant's homestead is located upon a voucher approved by the director of taxation in the amount of the allowable claim for refund. Sufficient information to identify the claimant shall be directed to the county treasurer with each warrant. Any taxes levied in any year on the homestead of any claimant who has obtained the eligibility herein provided for in excess of the amount paid to the county by the state and by the claimant on or before December 20 of such year shall be paid by the claimant on or before May 10 of the succeeding year.

(e) For the purposes of this section, "electronic record" shall have the meaning ascribed to it in K.S.A. 16-1602, and amendments thereto.

New Sec. 22. A claimant shall only be eligible for a claim for refund under this act if: (a) The household income for the year in which the claim is filed is \$50,000 or less; and (b) the appraised value of the homestead is \$350,000 or less.

New Sec. 23. If there are delinquent property taxes on the claimant's homestead, the refund shall be paid to the county treasurer of the county in which such homestead is located and applied first to the oldest of such delinquent property taxes and applied forward to the most recent delinquent property taxes and then to any other property taxes due on the claimant's homestead.

Sec. 24. K.S.A. 2018 Supp. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of

this act shall be to provide ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own their homestead; (b) certain persons who have a disability, who own or rent their homestead; and (c) certain persons other than persons included under the provisions of subsection (a) or (b) who have low incomes and dependent children and own their homestead.

Sec. 25. K.S.A. 2018 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act effective for tax year 2013 and thereafter without regard to any modifications pursuant to K.S.A. 79-32,117(b)(xx) through (xxiii) and (c)(xx), and amendments thereto, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned and or rented that is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older; (3) a disabled veteran; (4) the surviving spouse of active duty military personnel who died in the line of duty; or (5) a person other than a person included under paragraph (1), (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar

year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) ~~of this section~~ at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. With respect to any individual, for purposes of the preceding sentence ~~(with respect to any individual)~~, "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of <sup>20</sup>/<sub>200</sub> or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of <sup>20</sup>/<sub>200</sub> or less.

(i) "Disabled veteran" means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arm's length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purpose of the claim.

(k) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2019 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year. For the provisions of this subsection, a claimant shall only include those persons satisfying the requirements of subsection (e)(3).

Sec. 26. K.S.A. 2018 Supp. 79-4508 is hereby amended to read as follows: 79-4508. (a) ~~Commencing in the tax year beginning after December 31, 2005~~ 2019, the amount of any claim pursuant to this act shall be computed by deducting the amount computed under column (2) from the amount of claimant's property tax accrued or rent constituting property tax accrued, or both.

(1)		(2)
Claimants household income		Deduction from property tax accrued <u>or rent constituting property tax accrued, or both</u>
At least	But not more than	
\$0	\$6,000	\$0
6,001	7,000	4%
7,001	16,000	4% plus 4% of every \$1,000 or



		fraction thereof, of income in excess of \$7,001
16,001	27,000	40% plus 5% of every \$1,000, or fraction thereof, of income in excess of \$16,001
27,001	27,600	95%

(b) The director of taxation shall prepare a table under which claims under this act shall be determined. The amount of claim for each bracket shall be computed only to the nearest \$1.

(c) The claimant may elect not to record the amount claimed on the claim. The claim allowable to persons making this election shall be computed by the department which shall notify the claimant by mail of the amount of the allowable claim.

(d) ~~In the case of all tax years commencing after December 31, 2004,~~ The upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.

Sec. 27. K.S.A. 2018 Supp. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued or rent constituting property tax accrued, or the sum of both, exceeds \$700 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been \$700.

Sec. 28. K.S.A. 2018 Supp. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and size and nature of property claimed as the homestead. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of ~~subsection (g)~~ of K.S.A. 79-4502(g), and amendments thereto.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the division, in support of a claim, the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant. Upon request by the division, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is based wholly or partly upon homestead rental at some time during the calendar year, shall supply to the division, in support of a claim, a statement prescribed by the director certifying the amount of gross rent paid and that ad valorem property taxes were levied in full that year on the property, all or a part of which was rented by the claimant. When such claimant reports household income that is 150% or less of the homestead rental amount and has failed to provide any documentation or information requested by the division to verify such household income in support of a claim as required pursuant to subsection (a), within 30 days of such request, such homestead property tax refund claim shall be

denied. The information required to be furnished under this subsection or subsection (b) shall be in addition to that required under subsection (a).

Sec. 29. K.S.A. 2018 Supp. 79-4522 is hereby amended to read as follows: 79-4522. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds \$350,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and supplemental to the homestead property tax refund act.

Sec. 30. K.S.A. 2018 Supp. 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, after "conduct" by inserting "; establishing the golden years homestead property tax freeze act, residential property tax refunds; providing homestead property tax refund to disabled veteran renters; amending K.S.A. 2018 Supp. 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522 and repealing the existing sections"

**SB 104** be further amended by motion of Senator Tyson; on page 1, in line 8, before "Section" by inserting "New"; in line 11, before "Sec." by inserting "New"; in line 29, before "Sec." by inserting "New";

On page 2, in line 17, before "Sec." by inserting "New";

On page 3, in line 39, before "Sec." by inserting "New";

On page 4, in line 17, before "Sec." by inserting "New"; following line 18, by inserting:

"Sec. 7. K.S.A. 2018 Supp. 79-32,143a is hereby amended to read as follows: 79-32,143a. (a) For taxable years beginning after December 31, 2011, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal the difference between the depreciable cost of such property for federal income tax purposes and the amount of bonus depreciation being claimed for such property pursuant to section 168(k) of the internal revenue code, as amended, for federal income tax purposes in such tax year, but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended, multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for

the taxable year in which the property is placed in service, and once made, shall be irrevocable. If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto.

(c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to subsection (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period.

(d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere.

(e) Any member of a unitary group filing a combined report may elect to take an expense deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election.

(f) The following table shall be used in determining the expense deduction calculated pursuant to subsection (a):

**Factors**

<b>IRC§168 Recover Period (year)</b>	<b>IRC§168(b)(1) Depreciation Method</b>	<b>IRC§168(b)(2) Depreciation Method</b>	<b>IRC§168(b)(3) or (g) Depreciation Method</b>
2.5	*	.077	.092
3	.075	.091	.106
3.5	*	.102	.116
4	*	.114	.129

5	.116	.135	.150
6	*	.154	.170
6.5	*	.163	.179
7	.151	.173	.190
7.5	*	.181	.199
8	*	.191	.208
8.5	*	.199	.217
9	*	.208	.226
9.5	*	.216	.235
10	.198	.224	.244
10.5	*	.232	.252
11	*	.240	.261
11.5	*	.248	.269
12	*	.256	.277
12.5	*	.263	.285
13	*	.271	.293
13.5	*	.278	.300
14	*	.285	.308
15	*	.299	.323
16	*	.313	.337
16.5	*	.319	.344
17	*	.326	.351
18	*	.339	.365
19	*	.351	.378
20	*	.363	.391
22	*	.386	.415
24	*	.408	.438
25	*	.419	.449

\*Not Applicable

(g) If a taxpayer elects to expense any investment pursuant to subsection (a), such taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment allowed pursuant to K.S.A. 2018 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments thereto.

(h) (1) For tax year 2013, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to ~~subsection (e)~~ of K.S.A. 79-32,110(c), and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.

(2) For tax ~~year years~~ 2014, ~~and all tax years thereafter~~ 2015, 2016, 2017 and 2018, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to ~~subsection (e)~~ of K.S.A. 79-32,110(c), and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's corporate income or privilege tax liability.

(3) For tax year 2019, and all tax years thereafter, the deduction allowed by this section shall be available to all taxpayers subject to the income tax imposed pursuant to K.S.A. 79-32,110, and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's income or privilege tax liability.

Sec. 8. K.S.A. 2018 Supp. 79-32,143a is hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, after "conduct" by inserting "; expanding expense deduction to all taxpayers; amending K.S.A. 2018 Supp. 79-32,143a and repealing the existing section"; and **SB 104** be passed as further amended.

**HB 2039** be amended by the adoption of the committee amendments, be further amended by motion of Senator Wilborn; on page 1, in line 11, after "(c)" by inserting "Any person filing a tribal court judgment shall pay to the clerk of the district court a docket fee as prescribed by K.S.A. 60-2001, and amendments thereto. Any additional fees or charges not specifically covered by the docket fee shall be assessed as additional court costs in the same manner and to the same extent as if the action had been originally commenced in the court where the tribal court judgment is filed.

(d) "

**HB 2178** be amended by the adoption of the committee amendments, be further amended by motion of Senator Francisco; on page 2, in line 17, by striking ". "Operator" does not mean" and inserting ", except for"; in line 18, by striking the colon; in line 19, by striking "(1)"; in line 21, by striking "; or" and inserting a period; in line 22, by striking all before "portion" and inserting "An electric public utility shall not be considered an operator of any"; in line 23, by striking "downstream" and inserting "that is on another person's side"; in line 24, by striking "an" and inserting "the";

On page 6, in line 30, by striking "downstream" and inserting "to another person's side"; and the bill be passed as further amended.

The committee report on **HB 2167** recommending **S Sub HB 2167** be adopted, be amended by motion of Senator Kerschen; on page 9, in line 1, after "(d)" by inserting "Nothing in this section shall prohibit:

(1) The use of any hemp product for research purposes by a state educational institution or affiliated entity; or

(2) the production, use or sale of any hemp product that is otherwise authorized by state or federal law.

(e) "

**S Sub HB 2167** be further amended by motion of Senator Francisco; on page 13, in line 17, by striking "2018" and inserting "2019"

**S Sub HB 2167** be further amended by motion of Senator Francisco; on page 5, by striking all in lines 26 through 43;

On page 6, by striking all in lines 1 through 11;

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

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

On motion of Senator Denning, the Senate recessed until 2:00 p.m.

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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 the Committee of the Whole with Senator Sullentrop in the chair.

On motion of Senator Sullentrop the report for the morning and the following afternoon session was adopted:

**HB 2211** be passed.

**HB 2365** be amended by the adoption of the committee amendments, be further amended by motion of Senator Miller; on page 2, in line 29, by striking all after "shall"; by striking all in line 30; in line 31, by striking all before the period and inserting "not be required to be reviewed by the legislature and shall not expire in accordance with K.S.A. 45-229, and amendments thereto"; and the bill be passed as further amended.

**HB 2290** be amended by the adoption of the committee amendments; be further amended by motion of Senator Baumgardner; on page 1, by striking all in lines 11 through 32;

On page 4, in line 11, by striking "4" and inserting "2";

On page 7, in line 5, by striking "4" and inserting "2"; in line 36, by striking "4" and inserting "2"; in line 43, by striking "subsection (b) of"; also in line 43, after "75-5211" by inserting "(b)";

On page 8, following line 7, by inserting:

"Sec. 7. K.S.A. 2018 Supp. 75-6117 is hereby amended to read as follows: 75-6117. (a) There is hereby established in the state treasury the tort claims fund which shall be administered by the attorney general. All expenditures from such fund shall be made upon warrants of the director of accounts and reports pursuant to vouchers approved by the attorney general or by a designee of the attorney general.

(b) (1) Moneys in the tort claims fund shall be used only for the purpose of paying: (A) Compromises, settlements and final judgments arising from claims against the state or an employee of the state under the Kansas tort claims act or under the civil rights laws of the United States or of the state of Kansas; (B) costs of defending the state or an employee of the state in any actions or proceedings on those claims; and (C) judgments arising from claims pursuant to K.S.A. 2018 Supp. 60-5004, and amendments thereto, including, but not limited to, premiums under the state health care benefits program.

(2) Payment of a judgment arising from a claim pursuant to K.S.A. 2018 Supp. 60-5004, and amendments thereto, shall be subject to review by the state finance council. The attorney general shall notify the state finance council of the need for such review and ensure that payment of the judgment occurs without unnecessary delay.

(3) Payment of a compromise or settlement shall be subject to approval by the state finance council as provided in K.S.A. 75-6106, and amendments thereto.

(4) Payment of a final judgment shall be made from the fund if there has been a determination of any appeal taken from the judgment or, if no appeal is taken, if the time for appeal has expired.

(5) No payment shall be made from the fund to satisfy a compromise, settlement or final judgment when there exists insurance coverage obtained therefor, except that payment shall be made from the fund to satisfy a compromise settlement or final judgment for claims against the state or an employee of the state in any actions or proceedings arising from rendering or failure to render professional services by: (A) A charitable health care provider as defined by K.S.A. 75-6102, and amendments thereto; (B) a local health department as defined by K.S.A. 65-241, and amendments thereto, or an employee thereof; or (C) an indigent health care clinic as defined by K.S.A. 75-6115, and amendments thereto, or an employee thereof, even if there exists insurance coverage obtained therefor.

(c) Upon certification by the attorney general to the director of accounts and reports that the unencumbered balance in the tort claims fund is insufficient to pay an amount for which the fund is liable, the director of accounts and reports shall transfer an amount equal to the insufficiency from the state general fund to the tort claims fund.

(d) When payment is made from the ~~Kansas~~ tort claims fund on behalf of the university of Kansas hospital authority, the authority shall transfer to the tort claims fund an amount equal to the payment made by the tort claims fund on behalf of the authority.

(e) This section shall be part of and supplemental to the Kansas tort claims act.

(f) When payment is made from the tort claims fund on behalf of a state agency or employee for defense or indemnification of a claim involving an alleged violation of the Kansas open records act or the Kansas open meetings act, the agency requesting the defense or indemnification or employing the employee who requests the defense or indemnification shall transfer to the tort claims fund an amount equal to the payment made by the tort claims fund on behalf of the agency."

Also on page 8, in line 8, after "74-7317" by inserting "and K.S.A. 2018 Supp. 75-6117";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after the semicolon; by striking all in line 2; in line 3, by striking all before "creating"; in line 6, after the semicolon by inserting "relating to the tort claims fund; claims involving alleged violations of the open records act or the open meetings act;"; in line 7, after the second "and" by inserting "K.S.A. 2018 Supp. 75-6117 and"

**HB 2290** be further amended by motion of Senator Baumgardner; on page 2, following line 17, by inserting:

"New Sec. 4. (a) The attorney general shall appoint a Kansas youth suicide prevention coordinator and, within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator. The Kansas youth suicide prevention coordinator shall identify, create, coordinate and support youth suicide awareness and prevention efforts throughout the state.

(b) Within the limits of appropriations therefor, the Kansas youth suicide prevention coordinator may:

(1) Lead the development, implementation and marketing of a website, online application and mobile phone application to facilitate communication with youth for the purpose of preventing youth suicide and promoting youth safety and well-being;

(2) develop and promote multidisciplinary and interagency strategies to help communities, schools, mental health professionals, medical professionals, law

enforcement and others work together and coordinate efforts to prevent and address youth suicide;

(3) organize events that bring together youth, educators and community members from across the state to share information and receive training to prevent and address youth suicide in their communities;

(4) gather, disseminate and promote information focused on suicide reduction; and

(5) perform any other duty assigned by the attorney general to carry out the provisions of this section.";

On page 4, in line 11, by striking "4" and inserting "5";

On page 7, in line 5, by striking "4" and inserting "5"; in line 36, by striking "4" and inserting "5"; in line 43, by striking "subsection (b) of"; also in line 43, after "75-5211" by inserting "(b)";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the semicolon by inserting "appointment of a Kansas youth suicide prevention coordinator;"

A ruling of the chair was requested as to the germaneness of the amendment. The Rules Committee ruled the amendment was germane to the bill.

and **HB 2290** be passed as further amended.

The committee report on **SB 219** recommending **Sub SB 219** be adopted, be amended by motion of Senator Petersen; on page 3, following line 4, by inserting:

"(h) On or before February 1, 2020, and annually on or before February 1 thereafter, the attorney general shall submit a report to the president of the senate, the speaker of the house of representatives and the standing committees on judiciary in the senate and the house of representatives on the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act.";

Also on page 3, in line 12, by striking "email address,"; in line 16, after the stricken material by inserting "An official governmental document for a country other than the United States may be used to meet this requirement."; in line 25, by striking "email address,"; in line 26, after "and" by inserting: "

(A)"

Also on page 3, in line 30, after the stricken material by inserting: " or

(B) the identifying number from the seller's official governmental document for a country other than the United States;"

On page 4, in line 28, after "section" by inserting "for each transaction"; in line 29, after "thereto" by inserting ", within 72 hours after the transaction occurs"

Sub **SB 219** be further amended by motion of Senator Wilborn; on page 3, in line 2, by striking "2020" and inserting "2024"; following line 4, by inserting:

"(h) Any entity contracting with the attorney general or the Kansas bureau of investigation to provide or maintain the database required by this section shall not require a scrap metal dealer to contract with such entity for the authority to release proprietary or confidential data, including, but not limited to, customer information. Such entity shall not charge any fee to the scrap metal dealer as a condition of providing information to the database as required by the scrap metal theft reduction act, including, but not limited to, a fee for electronic submission of information.

(i) A scrap metal dealer providing information to the database as required by the scrap metal theft reduction act shall not be subject to civil liability for any claim arising from the negligence or omission by the state of Kansas or any contracting entity in the



collection, storing or release of information provided by such scrap metal dealer to the database.”; and the substitute bill be passed as amended.

A motion by Senator Tyson to amend **Sub SB 219** failed.

#### FINAL ACTION

On motion of Senator Denning an emergency was declared by a 2/3 constitutional majority, and **SB 104, SB 108; Sub SB 219; HB 2039; S Sub HB 2167; HB 2178, HB 2191, HB 2211, HB 2290, HB 2365** were advanced to Final Action and roll call.

**SB 104**, AN ACT concerning income taxation; enacting the Kansas taxpayer protection act; relating to paid tax return preparers; requiring a signature and tax identification number on returns and claims; authorizing actions by the secretary of revenue to enjoin certain conduct; establishing the golden years homestead property tax freeze act, residential property tax refunds; providing homestead property tax refund to disabled veteran renters; amending K.S.A. 2018 Supp. 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522 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, as amended.

**Sub SB 219**, 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.

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.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 0; Absent or Not Voting 1.

**SB 108**, AN ACT concerning crimes, punishment and criminal procedure; relating to involuntary manslaughter; abuse of a child; departure sentencing; mitigating factors; amending K.S.A. 2018 Supp. 21-5405, 21-5602 and 21-6815 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, as amended.

**HB 2039**, AN ACT concerning recognition of tribal court judgments.

On roll call, the vote was: Yeas 37; Nays 2; 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, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Ware, Wilborn.

Nays: Hilderbrand, Tyson.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**S Sub HB 2167**, AN ACT concerning industrial hemp; establishing a commercial industrial hemp program; amending K.S.A. 65-4101, 65-4105 and K.S.A. 2018 Supp. 2-3901, 2-3902, 2-3903, 21-5701 and 21-5702 and repealing the existing sections; also repealing K.S.A. 65-4101c and 65-4105b and K.S.A. 2018 Supp. 21-5701a.

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 substitute bill passed, as amended.

**HB 2178**, AN ACT concerning utilities; relating to the Kansas underground utility damage prevention act; definitions; location of facilities and duty to mark, exceptions; amending K.S.A. 66-1802, 66-1805 and 66-1806 and repealing the existing sections.

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, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Ware, Wilborn.

Nays: Holland.

Absent or Not Voting: Wagle.

The bill passed, as amended.

**HB 2191**, AN ACT concerning crimes, punishment and criminal procedure; relating to execution of search warrants; electronically stored information; amending K.S.A. 2018 Supp. 22-2503 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 2211**, AN ACT concerning motor vehicles; relating to the uniform act regulating traffic; driver's license reinstatement fee; waiver; amending K.S.A. 2018 Supp. 8-2110 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 2290**, AN ACT concerning the attorney general; creating a statewide Kansas victim information and notification everyday (VINE) coordinator; relating to the crime victims compensation board; creating the crime victims compensation division within the office of the attorney general; relating to the tort claims fund; claims involving alleged violations of the open records act or the open meetings act; amending K.S.A. 74-7304, 74-7305, 74-7308 and 74-7317 and K.S.A. 2018 Supp. 75-6117 and repealing the existing sections; also repealing K.S.A. 74-7306.

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 2365**, AN ACT concerning civil procedure and civil actions; relating to rules of evidence; peer support counseling session communication privilege; Kansas national guard members; amending K.S.A. 2018 Supp. 60-473 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, as amended.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2118, HB 2154, HB 2244, HB 2326, HB 2369, HB 2371, HB 2372, HB 2402.**

Announcing adoption of **HCR 5011.**

Announcing passage of **SB 70**, as amended; **SB 130**, as amended by substitution **H Sub SB 130.**

The House accedes to the request of the Senate for a conference on **H Sub SB 25** and has appointed Representatives Waymaster, Hoffman and Wolfe Moore as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **H Sub SB 16** and has appointed Representatives Williams, Hoffman and Winn as conferees on the part of the House.

On emergency motion of Senator Denning, **HCR 5011** was adopted by voice vote.

**CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR**

On motion of Senator Estes the Senate nonconcurred in the House amendments to **SB 53** and requested a conference committee be appointed.

The Vice President appointed Senators Estes, Olson and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Estes the Senate nonconcurred in the House amendments to **SB 70** and requested a conference committee be appointed.

The Vice President appointed Senators Estes, Olson and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Bowers the Senate nonconcurred in the House amendments to **SB 130** and requested a conference committee be appointed.

The Vice President appointed Senators Bowers, Hardy and Haley as a conference committee on the part of the Senate.

Senator Wilborn moved the Senate concur in House amendments to **SB 77.**

**SB 77**, AN ACT concerning children and minors; relating to children with sexual behavior problems; Kansas department for children and families; voluntary services.

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 Senate concurred.

**EXPLANATION OF VOTE**

Mr. Vice President: I VOTE "AYE" THIS TIME INSTEAD OF "PRESENT BUT PASSING" AS I DID ON FEB. 27 ON **SB 77** regarding a child under 18 years exhibiting a sexual behavior problem who allegedly commits sexual abuse against another person under 18. Under this bill, now our Department of Children and Families

(DCF) must respond and, if proven, referred to the child-in-need-of-care (CINC) code and referred to a child advocacy center. I agree that we need greater scrutiny and response to the growing number of our youths acting aggressively and sexually abusive. My only hesitancy remains the fiscal note; costs through DCF, to increase government's role in ferreting out, then offering parent(s) counseling for the aggressive child (and if refused by the parent, mandating the same.) A quarter of a million for identifying and referring to designated counseling centers. But honestly, only COMPLETE Legislative "peer-pressure" causes me to join the unanimous "Ayes" from BOTH Chambers today. Maybe I'm missing something here...? Again, society needs to better police the growing number of aggressive sexual interludes between juveniles. But we might also continue to explore less invasive, parentally-inclusive, not overtly mandated and not so tax-payer expensive stop-gaps too.—DAVID HALEY

### REPORTS OF STANDING COMMITTEES

The Committee on **Commerce** recommends **HB 2006**, as amended by House Committee of the Whole, be amended on page 1, in line 14, by striking "each"; also in line 14, by striking "program" and inserting "programs, as defined in section 2, and amendments thereto,"; in line 15, by striking "identified" and inserting "selected"; also in line 15, by striking all after "committee"; by striking all in line 16; in line 17, by striking all before the period; also in line 17, after the period by inserting: "The evaluation procedure established by this section is intended to enhance and facilitate the ability of the legislature to fulfill its responsibility to evaluate and oversee economic development incentive programs. The oversight of economic development incentive programs is intended to remain with the legislature, independent of the legislative post audit committee. This section shall not be construed to limit, in any way, oversight of economic development incentive programs to the legislative post audit committee.";

On page 2, in line 3, by striking all after "(d)"; by striking all in lines 4 through 19; in line 20, by striking all before the period and inserting: "Evaluations shall be conducted with the goal of enabling evidence-based policy determinations by the legislature with respect to economic development incentive programs. To the extent reasonably possible, evaluations shall utilize direct and documented and primary-source evidence instead of secondary-source data. An evaluation shall include, as directed by the legislative post audit committee:

(1) A description of the economic development incentive program, its history and its goals;

(2) a literature review of the effectiveness of the incentive program type, including an inventory of similar incentive programs in other states;

(3) an estimate of the economic and fiscal impact of the incentive program that may take into account the following considerations in addition to other relevant factors:

(A) The extent to which the incentive program changes business behavior;

(B) the results of the incentive program for the economy of Kansas as a whole, including both positive direct and indirect impacts and any negative effects on Kansas businesses; and

(C) a comparison with the results of other incentive programs or other economic development strategies with similar goals;

(4) an assessment of whether adequate protections are in place to ensure that the fiscal impact of the incentive program does not substantially increase beyond the state's

means or expectations in future years;

(5) an assessment of the incentive program's design and whether the incentive program is being effectively administered;

(6) an assessment of whether the incentive program is achieving its goals;

(7) recommendations for how the state can more effectively achieve the incentive program's goals;

(8) recommendations for any changes to state policy, rules and regulations or statutes that would allow the incentive program to be more easily or conclusively evaluated in the future, which may include changes to collection, reporting and sharing of data, and revisions or clarifications to the goals of the incentive program;

(9) a return on investment calculation for the economic development incentive program. For purposes of this paragraph, "return on investment calculation" means analyzing the cost to and the benefits realized by the state or political subdivision for providing the economic development incentive program;

(10) the methodology and assumptions used in carrying out the reviews, analyses and evaluations required under this subsection, including an analysis of multiplier effects and a critique of the multiplier effect determination methodologies utilized in the evaluation report, including any determinations made using standard industry software models and any respective limitations or potential effects of such methods on outcomes;

(11) an analysis of significant opportunity costs of the incentive program at the state and local levels;

(12) any other information that the legislative post audit committee deems necessary to assess the effectiveness of the incentive program and whether it is achieving the goals of the incentive program; and

(13) all information, after redaction as necessary, by the post auditor to remove information that is confidential under state or federal law, required for publication pursuant to section 3, and amendments thereto, with respect to the economic development incentive program being evaluated";

Also on page 2, in line 34, by striking "income tax credit program" and inserting "economic development incentive program";

On page 3, in line 9, after "creation" by inserting "program"; in line 10, after "thereto" by inserting ", and the economic development initiatives fund established by K.S.A. 79-4804, and amendments thereto"; in line 17, after "agency" by inserting ". "Recipient" includes an enterprise that is no longer solvent due to bankruptcy, and a recipient, with respect to an economic development project that has failed"; in line 39, by striking "either"; also in line 39, by striking "or" and inserting "on a permanently accessible web page that may be accessed"; in line 40, after "link" by inserting "to that web page placed";

On page 4, in line 12, by striking "claimed and"; also in line 12, after "to" by inserting "and received by"; in line 38, by striking "claimed" and inserting "received";

On page 5, in line 12, after the semicolon by inserting "or"; in line 14, by striking the semicolon; by striking all in lines 15 through 20; in line 21 by striking all before the period; following line 24, by inserting:

"New Sec. 4. (a) In addition to any other reports by the secretary of commerce to the legislative post audit committee, the standing committee on commerce, labor and economic development of the house of representatives or the standing committee on commerce of the senate, otherwise required by law each year, commencing in 2020, the

secretary of commerce shall make an oral presentation before the legislative post audit committee, the standing committee on commerce, labor and economic development of the house of representatives and the standing committee on commerce of the senate at mutually agreed times during the period from the commencement of the regular legislative session to the end of January, and shall provide a report to each such committee with respect to each economic development incentive program as defined by section 2, and amendments thereto.

(b) The report shall include the following, with respect to each economic development incentive program:

- (1) A summary of the program;
- (2) an annual update;
- (3) an analysis of economic impact data utilizing direct, primary-source or auditable data, to the extent such data is reasonably available, and excluding any tertiary or indirect effects of the economic development program; and
- (4) any other information or analysis specified by the committee.";

On page 12, following line 29, by inserting:

"Sec. 7. K.S.A. 12-5245 is hereby amended to read as follows: 12-5245. (a) Upon receipt of the approval of the secretary as provided in ~~subsection (e) of K.S.A. 12-5244(c), and amendments thereto,~~ the governing body may proceed with the establishment of the district. Before doing so, the governing body shall adopt a plan for the development or redevelopment of housing and public facilities in the proposed district. Such plan may include plans for one or more projects, and the length of any individual project shall not exceed ~~15~~ 25 years. The plan shall include, but not be limited to, the following:

(1) The legal description and map required by ~~subsection (a) of K.S.A. 12-5244(a), and amendments thereto;~~

(2) the existing assessed valuation of the real estate in the proposed district, listing the land and improvement values separately;

(3) a list of the names and addresses of the owners of record of all real estate parcels within the proposed district;

(4) a description of the housing and public facilities project or projects that are proposed to be constructed or improved in the proposed district, and the location thereof;

(5) a listing of the names, addresses and specific interests in real estate in the proposed district of the developers responsible for development of the housing and public facilities in the proposed district;

(6) the contractual assurances, if any, the governing body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentive projects in the proposed district; and

(7) a comprehensive analysis of the feasibility of providing housing tax incentives in the district, as provided in this act, ~~which that~~ shows the public benefits derived from such district will exceed the costs and that the income therefrom, together with other sources of funding, will be sufficient to pay for the public improvements that may be undertaken in such district. If other sources of public or private funds are to be used to finance the improvements, they shall be identified in the analysis.

(b) Prior to the adoption of the plan and designation of the district, the governing body shall adopt a resolution stating that the governing body is considering such action.

The resolution shall provide notice that a public hearing will be held to consider the adoption of the plan and the designation of the district and contain the following elements:

- (1) The date, hour and place of the public hearing;
  - (2) the contents of ~~paragraphs (1) through (4) in subsection (a) of this section~~ (1) through (4);
  - (3) a summary of the contractual assurances by the developer and comprehensive feasibility analysis; ~~and~~
  - (4) a statement that the plan is available for inspection at the office of the clerk of the city or county at normal business hours; ~~and~~
  - (5) a statement inviting members of the public to review the plan and attend the public hearing on the date announced in the resolution; ~~and~~
- (c) The date fixed for the public hearing shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution. The resolution shall be published at least once in the official newspaper of the city or county, with the final publication being not less than one week or more than two weeks preceding the date fixed for the public hearing.
- (d) A certified copy of the resolution shall be delivered to the planning commission of the city or county and the board of education of any school district levying taxes on property within the proposed district. If the resolution is adopted by a city governing body, a certified copy also shall be delivered to the board of county commissioners of the county. If the resolution is adopted by a county governing body, it also shall be delivered to the governing body of any city located within three miles of such proposed district.

Sec. 8. K.S.A. 2018 Supp. 12-5248 is hereby amended to read as follows: 12-5248. (a) (1) Any city or county ~~which that~~ has established a housing incentive district as provided in this act may issue special obligation bonds to finance the implementation of the plan adopted for the district by the governing body. ~~Such The~~ special obligation bonds shall be made payable, both as to principal and interest:

- (A) From property tax increments allocated to, and paid into a special fund of the city or county under the provisions of ~~subsection (b) of K.S.A. 12-5250(b)~~, and amendments thereto;
- (B) from revenues of the city or county derived from or held in connection with the implementation of the project or projects in the district;
- (C) from any private sources, contributions or other financial assistance from the state or federal government;
- (D) from any financial sureties or other guarantees provided by the developer;
- (E) from a pledge of any other lawfully available city or county revenue sources, including, but not limited to: ~~(1) (i)~~ A portion of all increased franchise fees collected from utilities and other businesses using public rights-of-way within the district; or ~~(2) (ii)~~ a portion of the sales and use tax revenues received by the city or county and collected pursuant to K.S.A. 12-187, and amendments thereto; or
- (F) by any combination of these methods.

The city or county may pledge ~~such the~~ revenue to the repayment of ~~such the~~ special obligations bonds prior to, simultaneously with, or subsequent to the issuance of ~~such the~~ special obligation bonds.

- (2) Bonds issued under this subsection shall not be general obligations of the city or



county, ~~not nor~~ in any event, shall they give rise to a charge against the general credit or taxing powers of the city or county, or be payable out of any funds or properties other than any of those set forth in this subsection. ~~Such The~~ bonds shall ~~so~~ state such information on their face.

(3) The bonds issued under the provisions of this subsection shall be special obligations of the city or county and are declared to be negotiable instruments. The bonds shall be executed by the mayor and clerk of the city or, in the case of counties, by the chairman of the board of county commissioners and clerk of the county, and shall be sealed with the corporate seal of the city or the seal of the county. All details pertaining to the issuance of ~~such the~~ special obligation bonds shall be determined by ordinance of the city or resolution of the county. All special obligation bonds issued pursuant to this act shall be exempt from all state taxes. The special obligation bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. The special obligation bonds shall contain the following recitals, ~~viz.:~~ The authority under which ~~such the~~ special obligation bonds are issued; ~~that~~ they are in conformity with the provisions, restrictions and limitations thereof; and that ~~such the~~ special obligation bonds and the interest thereon are to be paid from the money and revenue received as provided in paragraph (1) ~~of this subsection.~~

(4) The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed ~~15~~ 25 years.

(5) Any city or county issuing special obligation bonds under the provisions of this act may refund all or part of ~~such the~~ issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(b) In the event the city or county shall default in the payment of any special obligation bonds as authorized pursuant to ~~paragraph (1) of subsection (a)(1) of this section, and amendments thereto,~~ no public funds shall be used to pay the holders thereof except as otherwise specifically authorized in this act.

(c) Any and all terms, conditions, exclusions and limitations ~~which that~~ are otherwise applicable to bonds issued by authority of K.S.A. 12-1774, and amendments thereto, shall also be applicable to bonds issued pursuant to this section.

Sec. 9. K.S.A. 12-5250 is hereby amended to read as follows: 12-5250. (a) All taxable tangible property located within a district established in accordance with this act shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute such taxes as may be collected in the same manner as if such property were located outside the district. Each district established under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(b) Beginning with the first payment of taxes ~~which that~~ are levied following the date of the approval of any district in accordance with this act, and amendments thereto, real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision on property located within such district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for

each taxing subdivisions upon property located within a district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from that portion of the current assessed valuation of such real property located within such separate taxing unit which is equal to the total assessed value of such real property on the date of the establishment of the district.

(2) Any real property taxes produced from that portion of the current assessed valuation of real property within a district and constituting a separate taxing unit under the provisions of this section in excess of an amount equal to the total assessed value of such real property on the effective date of the establishment of the district shall be allocated and paid by the county treasurer to the treasurer as follows:

(A) In districts established by a city, the amount shall be paid to the treasurer of the city and deposited in a special fund of the city to pay the cost of housing projects in the district including the payment of principal of and interest on any special obligation bonds issued by such city to finance, in whole or in part, such housing project.

(B) In districts established by a county, the amount shall be deposited by the county treasurer in a special fund of the county to pay the cost of housing projects in the district including the payment of principal of and interest on any special obligation bonds issued by such county to finance, in whole or in part, such housing project. If such special obligation bonds and interest thereon have been paid before the completion of a project, the city or county may continue to use such moneys for any purpose authorized by this act until such time as the project is completed, but for not to exceed ~~15~~ 25 years from the date of the establishment of the district. When such special obligation bonds and interest thereon have been paid and the project is completed, all moneys thereafter received from real property taxes within such district shall be allocated and paid to the respective taxing subdivisions in the same manner as are other ad valorem taxes.

(c) Notwithstanding any other provision of law, it is hereby stated that is an object of all ad valorem taxes levied by or for the benefit of any taxing subdivision on taxable tangible real property located within any district created pursuant to this act, that such taxes may be applied and allocated to and when collected paid into a special fund of a city or county pursuant to the procedures and limitations of this act to pay the cost of a project including principal of and interest on special obligation bonds issued by such city or county to finance, in whole or in part, such project.";

Also on page 12, in line 30, before "K.S.A" by inserting "K.S.A. 12-5245 and 12-5250 and"; also in line 30, after "Supp." by inserting "12-5248,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "the department of commerce" and inserting "economic development"; in line 2, by striking "incentive"; also in line 2, by striking all after "evaluations"; in line 3, by striking "audit"; also in line 3, by striking "the"; also in line 3, by striking "incentive"; also in line 3, after the comma by inserting "certain"; in line 4, by striking "and" and inserting a comma; also in line 4, by striking "required"; in line 5, after the semicolon by inserting "development incentives to address rural housing shortages, rural housing incentive district bonds"; also in line 5, after "amending" by inserting "K.S.A. 12-5245 and 12-5250 and"; also in line 5, after "Supp." by inserting "12-5248,"; and the bill be passed as amended.

Also, Committee on **Commerce** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your

committee recommends that the Senate not approve and not consent to such appointment:

By the Governor:

Secretary, Department of Commerce: K.S.A. 74-5002a

David Toland, serves at the pleasure of the Governor

The Committee on **Ways and Means** begs leave to submit the following report: The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Secretary, Kansas Department for Children and Families: K.S.A. 75-5301

Laura Howard, serves at the pleasure of the Governor

Secretary, Kansas Department for Aging and Disability Services: K.S.A. 75-5903

Laura Howard, serves at the pleasure of the Governor

### TRIBUTES

The Committee on **Organization, Calendar, and Rules** authorizes the following tributes for the week of March 25 through March 27, 2019:

Senator Bowers: congratulating the Russell Chamber of Commerce Award Winners for 2019 (Cook's Home and Auto, Russell Main Street Inc., Larry Bernard, Lyndel Adams, Edie McQuade), congratulating Kennie Chapman on forty years as a volunteer hunter education instructor, congratulating Caroline Scoville on being named the 2019 Outstanding Instructor/Coordinator of the Year, congratulating Jan and Jerry Alldredge on receiving the 2019 Modern Woodmen's Hometown Hero Program Volunteer Award;

Senator Faust-Goudeau: honoring the Wichita Shriners Chapter, commending the 5th Annual Ministers' Wives and Widows Workshop;

Senator Hardy: celebrating Helen Smith's 101st Birthday, celebrating Midred Mitchell's 101st Birthday, celebrating Ruth Weed's 101st Birthday, celebrating Jean Hoover's 102nd Birthday, celebrating Martin Reigel's 102nd Birthday, celebrating Virginia Ade's 102nd Birthday, celebrating Letha McDowell's 103rd Birthday, celebrating Amy Magdeburg's 105th Birthday; and

Senator Hilderbrand: congratulating the Girard High School on winning the 2019 Boys High School Class 3A Basketball State Champions.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Monday, April 1, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

