

Journal of the Senate

FORTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 19, 2019, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 39 senators present.

Senator Hensley was excused.

The President introduced Reverend, Dr. Ed Farris, Heartland Hospice Care in Topeka and guest of Senator Denning, who delivered the invocation:

We come before You, Father God, and give You thanks for life and the blessing of living. As we look throughout our State of Kansas, seeing the needs and hurts of people in so many different areas, let us follow the words and advice of the prophet Jeremiah: "Let now the wise man boast of his wisdom, or the strong man boast of his strength or the rich man boast of his riches but let him who boasts boast about this: that he understands and knows that I am the LORD who exercises kindness, justice and righteousness on earth, for in these I delight declares the LORD."

There are many extremely important issues coming before this decision-making body that have to be dealt with. May Your wisdom and guidance direct our path. We depend on Your guidance in all our decision-making as we echo the words of Amos the Prophet, "Let justice roll on like a river, righteousness like a never-failing stream."

In the name of Your Son, Jesus, Amen.

The Pledge of Allegiance was led by President Wagle.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committee as indicated:

Public Health and Welfare: **SB 231, SB 232.**

MESSAGES FROM THE GOVERNOR

March 18, 2019

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 19-500.

Laura Kelly
Governor

The President announced this Executive Directive is on file in the office of the Secretary of the Senate and available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2188**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2188 was thereupon introduced and read by title.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

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

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 Billinger in the chair.

On motion of Senator Billinger the following report was adopted:

SB 125 be passed.

SB 135 be amended by the adoption of the committee amendments, and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2215** be passed.

Also, **HB 2085**, as amended by House Committee, be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 65-163i is hereby amended to read as follows: 65-163i. (a) Municipalities ~~which that~~ desire the provision of a loan under this act shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any municipality for the provision of a loan thereto for payment of all or a part of project costs and any municipality may enter into such an agreement and may accept such loan when so authorized by the municipal governing body. The purposes of the loan to be provided, the amount thereof, the interest rate thereon and the repayment terms and conditions thereof, all of which may vary among municipalities, shall be included in the agreements. Loans shall be provided at or below market interest rates. All such agreements with municipalities shall require that municipalities establish a dedicated source of revenue for repayment of the loans as provided in K.S.A. 65-163j, and amendments thereto. Such agreements shall further provide that repayment of any loan received shall begin not later than one year after completion of the project and that such loan shall be repaid in full no later than ~~20~~ 40 years thereafter.

(c) If a municipality to which a loan is made available under this act fails to enter into an agreement with the secretary for the provision of such loan in accordance with the requirements of this act, the secretary may make the amount of the loan available for one or more other projects on the priority list.

(d) The secretary shall provide any municipality, upon request, with technical

advice and assistance regarding a project or an application for a loan for the payment of all or part of project costs.";

On page 2, in line 9, before "K.S.A" by inserting "K.S.A. 65-163i and"; also in line 9, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the second semicolon and inserting "water; relating to public water supply systems; municipal loans; reinstatement of rural water district benefit units"; also in line 2, after "amending" by inserting "K.S.A. 65-163i and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2101**, as amended by House Committee, be passed.

Also, **HB 2177** be amended on page 1, in line 6, before "Section" by inserting "New";

On page 2, following line 41, by inserting:

"Sec. 2. K.S.A. 2018 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address an RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) "NAIC" means the national association of insurance commissioners.

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" means the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2017~~ 2018, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2018 Supp. 40-2c29, and amendments thereto.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of

2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of 0.70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Sec. 3. K.S.A. 2018 Supp. 40-2c01 is hereby repealed.;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "life"; in line 2, by striking "pertaining to the"; in line 3, by striking "indexed product reserves" and inserting "risk-based capital requirements; version of instructions in effect; amending K.S.A. 2018 Supp. 40-2c01 and repealing the existing section"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2178**, as amended by House Committee, be amended on page 4, following line 14, by inserting:

"Sec. 2. K.S.A. 66-1805 is hereby amended to read as follows: 66-1805. (a) This act recognizes the establishment of a single notification center for the state of Kansas. Each operator who has an underground facility shall become a member of the notification center.

(b) For operators of tier 1 facilities or operators of tier 2 facilities that desire notification in the same manner as operators of tier 1 facilities, the notification center shall provide prompt notice of any proposed excavation to each affected operator that has facilities recorded with the notification center in the area of a proposed excavation site.

(c) For operators of tier 2 facilities that desire direct contact with the excavator, the notification center shall provide the excavator with the name and contact information of the affected operator that has facilities recorded with the notification center in the area of the proposed excavation.

(d) Notification to operators as defined in subsection (b) shall be given by notifying the notification center by telephone at the toll free number or by other communication methods approved by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

(e) Notification to operators as defined in subsection (c) may be given by notifying the operator of tier 2 facilities using the contact information provided by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

(f) Each operator who has an underground facility within the state shall be afforded

the opportunity to become a member of the notification center on the same terms as the original members.

(g) A suitable record shall be maintained by the notification center to document the receipt of notices from excavators as required by this act.

(h) A suitable record shall be maintained by operators of tier 2 facilities that desire direct contact with the excavator pursuant to subsection (c) to document the receipt of notices from excavators.

(i) The notification center shall charge and collect an annual membership fee in the amount of \$25 from each tier 2 facility member.

(j) The notification center shall charge a referral fee to tier 2 facility members in an amount no more than 50% of the referral fee rate charged to tier 1 facility members.

(k) Upon request of the operator, the person filing the notice of intent to excavate shall whittle the proposed excavation site prior to locates being performed.

(l) The notification center established pursuant to this section shall be and is hereby deemed to be a public agency and shall be subject to the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, except that the notification center or board of directors, or successor managing organization shall not disseminate, make available or otherwise distribute data or information provided by an operator of a tier 1, 2 or 3 facility unless such dissemination, making available or distributing is necessary for the state corporation commission or the notification center to carry out legal duties or specific statutory duties prescribed under this chapter.

(m) On and after July 1, 2009, the notification center's board of directors shall include two members from tier 2 facilities and ~~+~~one member from tier 3 facilities.

(n) The notification center shall prepare an annual report which describes the activities of such center. An annual audit of the notification center shall be conducted by an independent certified public accountant. The notification center shall provide copies of such reports to each member of the notification center and shall be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

(o) The notification center shall solicit proposals for operation of the notification center not more than every five years which shall be awarded in an open meeting by the board of directors of the notification center. The bidding process prescribed by this subsection shall be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

(p) The notification center shall conduct a cost of service audit not more than every five years or as otherwise requested by the board of directors of the notification center or a majority of the members of such center.

(q) On and after July 1, 2019, the notification center shall notify any person or excavator requesting identification of the location of underground facilities that utilities are only required to identify the location of utility-owned facilities and are not required to identify the location of privately owned facilities.;

On page 5, in line 33, after "66-1802" by inserting ", 66-1805";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after "66-1802" by inserting ", 66-1805"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2103** be passed.

Also, **HB 2201** be passed and, because the committee is of the opinion that the bill is

of a noncontroversial nature, be placed on the consent calendar.

Committee on **Ways and Means** recommends **SB 75** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 75," as follows:

"Substitute for SENATE BILL NO. 75
By Committee on Ways and Means

"AN ACT making and concerning appropriations for fiscal years ending June 30, 2019, June 30, 2020, June 30, 2021, and June 30, 2022, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 74-50,107 and 74-99b34 and K.S.A. 2018 Supp. 2-223, 12-1775a, 12-5256, 55-193, 75-2263, 76-775, 76-7,107, 79-2959, 79-2964, 79-3425i, 79-34,171, 79-4804 and 82a-953a and repealing the existing sections.";

And the substitute bill be passed.

REPORT ON ENROLLED BILLS

SB 22 reported correctly enrolled, properly signed and presented to the Governor on March 19, 2019.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Wednesday, March 20, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

