

Journal of the House

THIRTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 7, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair. The roll was called with 123 members present.

Reps. McCreary and O'Brien were excused on verified illness.

Prayer by Chaplain Chamberlain:

O Lord of all creation, As we gather let us remember that all of us stand in the footprint of servants who have traveled this way before. Through their service and dedication, a nation was brought forth from this continent conceived in new ideals, hopes and dreams. Pioneers and adventurers came to a vast prairie and saw possibilities worth the hardships that they would endure. Men and women of vision led the people into your future.

We thank you for those who have walked before us. We thank you for their courage, their industry and their faith. We thank you for the privilege of standing where they stood.

And now O God, lead us to understand that we form footprints of our own; that our children and their children's children will walk in the paths that we set with our lives, our decisions and our dreams. Help us to receive our responsibility to them as a sacred trust, given by you for the blessing of all, and guide us in our journey. Amen.

The Pledge of Allegiance was led by Rep. D. Williams.

INTRODUCTION OF GUESTS

Rep. Mayans introduced Winston Brooks, Wichita, Superintendent of USD 259, who was named Kansas Superintendent of the Year. Rep. Mayans also presented Mr. Brooks with a certificate sponsored by the Sedgwick County delegation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 3009, An act concerning state officers and employees; relating to certain payroll deductions; amending K.S.A. 75-5521, 75-5523, 75-5530 and 75-5531 and K.S.A. 2001 Supp. 75-5525 and repealing the existing sections, by Committee on Appropriations.

HB 3010, An act concerning crimes, criminal procedure and punishment; relating to placement in court services or community corrections of felons; amending K.S.A. 2001 Supp. 22-3716 and 75-5291 and repealing the existing sections, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 3007**, **HB 3008**.

CHANGE OF REFERENCE

Speaker pro tem Aurand announced the withdrawal of **HB 2957** from Committee on Judiciary and referral to Committee on Appropriations.

Also, the withdrawal of **SB 393** from Committee on Education and referral to Committee on Higher Education.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2399, An act concerning criminal procedure; relating to offender registration; amending K.S.A. 2001 Supp. 22-4902 and 22-4906 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 109; Nays 13; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Pyle, Ray, Reardon, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Burroughs, Crow, DiVita, Faber, Flora, Gilbert, Goering, Kirk, Powers, Rehorn, Sharp, Spangler, Welshimer.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, Pottorff.

The bill passed, as amended.

HB 2735, An act concerning crimes and punishment; relating to aggravated battery; amending K.S.A. 21-3414 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 83; Nays 39; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cox, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Johnson, Krehbiel, Landwehr, Lane, Larkin, Light, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Patterson, J. Peterson, T. Powell, Pyle, Ray, Ruff, Sharp, Shriver, Shultz, Sloan, Stone, Storm, Tafanelli, Tanner, Tomlinson, Toplikar, Vickrey, Wells, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Barnes, Burroughs, Cook, Crow, DiVita, Faber, Flora, Freeborn, Garner, Goering, Henderson, Huebert, Huy, Kauffman, Kirk, Klein, Kuether, Levinson, Lightner, Merrick, Miller, Minor, Jim Morrison, Palmer, Pauls, E. Peterson, Phelps, L. Powell, Powers, Reardon, Rehorn, Schwartz, Showalter, Spangler, Swenson, Thimesch, R. Toelkes, Weber, Welshimer.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, Pottorff.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: I am concerned about the draconian consequences of **HB 2735**. Under this bill, the proposed sentencing for *first* time DUI, clean record, involved in an accident with two other vehicles and injuries, no deaths.

The sentencing goes as follows:

Two counts of Aggravated Battery Felonies running consecutively.

Six months sentence on DUI running consecutively to Aggravated Batteries.

Total sentence 24 months.

This is the harsh reality of **HB 2735** already being practiced as law in my county.

People make mistakes, it is human nature. People should be punished for their mistakes but be allowed to learn—not buried by them. I vote no on **HB 2735**.—PATRICIA LIGHTNER

MR. SPEAKER: I vote NO on **HB 2735**. This bill expands the crime of aggravated battery to include accidentally being involved in an accident while driving under the influence of alcohol. Although I am opposed to anyone driving drunk, this bill goes too far. One unintentional mistake made while under the influence of alcohol should not automatically be a felony crime. I support present law, which requires proof that a person was at least reckless before convicting them of a felony crime.—MARTI CROW, ROGER TOELKES, NANCY A. KIRK, ANNIE KUETHER, VAUGHN L. FLORA

HB 2752, An act concerning crimes and punishment; relating to theft; concerning certain pipelines; defining certain crimes relating thereto; amending K.S.A. 2001 Supp. 21-3701 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, Pottorff.

The bill passed, as amended.

HB 2880, An act concerning crimes, punishment and criminal procedure; relating to specimen collection; amending K.S.A. 2001 Supp. 21-2511 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 19; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Newton, Nichols, Novascone, O'Neal, Osborne, Owens, Palmer, Patterson, E. Peterson, J. Peterson, T. Powell, Pyle, Ray, Reardon, Ruff, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Crow, Garner, Goering, Henderson, Huebert, Klein, McClure, Neufeld, Ostmeyer, Pauls, Phelps, L. Powell, Powers, Rehorn, Schwartz, Spangler, Storm, Swenson, Winn.

Present but not voting: None.

Absent or not voting: McCreary, Myers, O'Brien, Pottorff.

The bill passed, as amended.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Cox in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Cox, Committee of the Whole report, as follows, was adopted:

Recommended that committee report to **HB 2690** be adopted; also, on motion of Rep. Wilk be amended on page 3, in line 14, by striking all after the period; in line 15, by striking all preceding "The board of direc-"; in line 18, by striking "Seven" and inserting "seven";

On page 5, in line 15, by striking all after the period; by striking all of lines 16 through 18 and inserting "Subject to the provisions of appropriation acts, payment of principal and interest on the bonds shall be made by the state board of regents from annual appropriations by the legislature from such revenues as are furnished by the board of regents, or from any other available funds, in amounts sufficient to pay principal and interest on the bonds until the bonds are finally paid."; in line 26, after "accounts" by inserting "and reports";

Also, roll call was demanded on motion of Rep. Howell to refer **HB 2690** to Committee on Taxation.

On roll call, the vote was: Yeas 32; Nays 87; Present but not voting: 0; Absent or not voting: 6.

Yeas: Barnes, Crow, Dahl, Faber, Feuerborn, Flaharty, Flora, Garner, Gatewood, Henry, Howell, Kauffman, Kirk, Klein, Kuether, Larkin, Loganbill, Mays, McClure, McKinney, Minor, Jim Morrison, Nichols, Ostmeyer, Palmer, Pauls, Pyle, Ruff, Showalter, Thimesch, Toplikar, J. Williams.

Nays: Aday, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Findley, Freeborn, Gilbert, Glasscock, Goering, Grant, Hayzlett, Henderson, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Krehbiel, Landwehr, Lane, Levinson, Light, Lightner, Lloyd, M. Long, P. Long, Loyd, Mason, Mayans, McLeland, Merrick, Miller, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Owens, Patterson, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Ray, Reardon, Rehorn, Schwartz, Sharp, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, R. Toelkes, Tomlinson, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Gordon, Hermes, Huy, McCreary, O'Brien, Pottorff.

The motion to refer **HB 2690** to Committee on Taxation did not prevail.

Also, on motion of Rep. Burroughs **HB 2690** be amended on page 5, in line 14 by striking all after "commencing"; in line 15 by striking all before the period and inserting "after the date a project is completed and has been accepted by the board of regents"; in line 26, before the comma by inserting "and commencing on or after July 1, 2004"; in line 27, by striking "general" and inserting "economic development initiatives"; in line 31, by striking "2003" and inserting "2004"; in line 32, by striking "general" and inserting "economic development initiatives"; in line 34, by striking "general" and inserting "economic development initiatives"; in line 41, by striking "general" and inserting "economic development initiatives";

Also, roll call was demanded on motion of Rep. Grant to amend **HB 2690** on page 1, in line 15, by striking "11" and inserting "12";

On page 16, following line 9, by inserting new material to read as follows:

"Sec. 11. (a) Each contract entered into by a state agency for any nonfederal aid, public works project for a scientific research and development facility under the university research and development enhancement act shall be based on bid or contract specifications prescribing and requiring that employees of any contractor or subcontractor shall be paid not less than the hourly wages, including fringe benefits, paid to corresponding classes of laborers and mechanics employed on similar projects in the county where the project is to be performed. Such minimum wage shall be the wage paid to the majority of the laborers or mechanics, unless the same wages are not paid to a majority, in which case the minimum wage shall be the average wages paid, weighted by the total employed in the classification.

In the alternative, the minimum wage shall be that determined under federal law which would be required to be paid on federally-funded projects at the location of the public works project.

(b) Employees employed by contractors or subcontractors in the execution of any non-federal aid, public works project contract subject to this section with any state agency shall be paid not less than the wages as determined pursuant to subsection (a).

(c) First preference for any contract for a public works project for a scientific research and development facility under the university research and development enhancement act shall be contractors employing exclusively Kansas resident employees.

(d) As used in this section, "state agency" means the board of regents, the subsidiary corporation of the board of regents formed pursuant to section 5, and amendments thereto, any firm performing construction management at-risk services under section 10, and amendments thereto, or any state educational institution.";

And by renumbering sections accordingly;

On roll call, the vote was: Yeas 62; Nays 58; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Burroughs, Cox, Crow, Dillmore, Faber, Feuerborn, Findley, Flaherty, Flora, Garner, Gatewood, Gilbert, Goering, Grant, Henderson, Henry, Horst, Howell, Hutchins, Kauffman, Kirk, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, Mays, McClure, McKinney, Minor, Nichols, Ostmeyer, Palmer, Pauls, E. Peterson, Phelps, Powers, Pyle, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Sloan, Spangler, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Wells, Welshimer, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Dahl, DeCastro, DiVita, Dreher, Edmonds, Freeborn, Glasscock, Gordon, Hayzlett, Holmes, Huebert, Huff, Humerickhouse, Huy, Johnson, Krehbiel, Landwehr, Lane, Light, Lightmer, Lloyd, P. Long, Loyd, Mayans, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Owens, Patterson, J. Peterson, L. Powell, T. Powell, Ray, Schwartz, Shultz, Stone, Tanner, Weber, Wilk, D. Williams.

Present but not voting: None.

Absent or not voting: Hermes, Mason, McCreary, O'Brien, Pottorff.

The motion of Rep. Grant prevailed.

Also, on motion of Rep. Nichols to amend **HB 2690**, the motion did not prevail, and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **HB 2992** be passed.

The Committee on **Appropriations** recommends **HB 2681** be amended on page 2, in line 31 by striking all after "convert"; in line 32 by striking all before the period and inserting "a portion of one wing of the facility to a not less than five-bed and not more than eight-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous" and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 3011, An act concerning the retailers' sales tax; authorizing use of the revenue thereof for construction of the county jail in Anderson county; amending K.S.A. 12-187 and 12-189e and repealing the existing sections, by Committee on Appropriations.

REPORT ON ENGROSSED BILLS

HB 2399, **HB 2735**, **HB 2752**, **HB 2880** reported correctly engrossed March 6, 2002.

On motion of Rep. Weber, the House adjourned until 10:00 a.m., Friday, March 8, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

