

Journal of the House

TWENTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 18, 2003, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 121 members present.
Rep. Flora was excused on verified illness.
Reps. Light and Sawyer were excused on excused absence by the Speaker.
Present later: Rep. Light.

Prayer by guest chaplain, the Rev. Daniel H. March, Administrator, Wheat State Manor, Inc., Whitewater, and guest of Rep. Bethell:

Almighty God, our Judge and Friend,

Your control of our lives and world is absolute, yet you allow us to act like we are in charge and to speak as ones with authority and power. Today you call us to lead and to guard the people of Kansas. Forgive us for our hubris and inhumanity and uncover our eyes that we may understand the gravity of human need across our land and recognize the opportunity for public service entrusted to us.

- Inspire the words and actions of these men and women to work together in the battle against injustice and greed, in order that Kansans from the board rooms to the barnyards will know that your *justice* prevails.
- Bless the deliberations of this great body today that it may generate bipartisan acts of *kindness* that will protect the rights and address the needs of the frail and defenseless in the nursing homes and on the playgrounds across the state.
- Cause this body of representatives to be representative of the citizens of Kansas in their tolerance, hope, and genuine love for their neighbors and so to set a precedent of *humility* for all to see.

These things we pray that your good and perfect will may be done in and through our words in the House of Representatives and in order that we may hold our heads high when we return home as representatives not only of the wills of our constituents but as defenders of your will of justice, kindness, and humility for all Kansans. Amen.

The Pledge of Allegiance was led by Rep. Grant.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2403, An act enacting the Kansas commemorative coin design act, by Committee on Federal and State Affairs.

HB 2404, An act concerning sale of real estate for delinquent taxes; amending K.S.A. 2002 Supp. 79-2804g and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2397, HB 2399, HB 2400.**

Calendar and Printing: **HB 2398.**

Economic Development: **HB 2395, HB 2396.**

Federal and State Affairs: **HB 2401, HB 2402.**

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2306** from Committee on Health and Human Services and referral to Committee on Judiciary.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Ruff, **HR 6010**, A resolution congratulating and commending Donald Lee Hollowell, was adopted.

SPECIAL REMARKS

There being no objection, the following remarks of Rep. Ruff are spread upon the Journal.

Mr. Speaker and fellow House members, Rep. Wilk, Rep. Crow and myself take a great deal of pride in sharing with you the life and accomplishments of Donald Hollowell, a native Kansan who has lived his life as a testament to what we hold dear in our great State.

This is a man who walked with the giants of the Civil Rights movements but more importantly when the time came, he served as their lawyer and argued quite persuasively to get them out of jail. On numerous occasions he stood beside the Rev. Dr. Martin Luther King Jr. and used his excellent legal skills to defend his right to eat at a lunch counter, demonstrate against unfair hiring practices or march in protest of inhuman treatment.

As an attorney, this man who was educated in Kansas public schools, understood and appreciated the law. As a Christian, he knew the Lord called on his people to defend the weak against the tyranny of the majority. And as a Kansan raised in a home that valued discipline and respect, he never forgot where he came from.

But the fight he was waging was far from home, because Donald Hollowell was a Midwesterner, born in Wichita and raised in Leavenworth. It was in Leavenworth that he faced his first real disappointment. It was the dark days of the Great Depression, and Mr. Hollowell's father told him he'd have to forego his last year of high school and get a job.

Donald Hollowell headed to Ft. Leavenworth and joined the famous 10th Cavalry, the Buffalo Soldiers. Thus began the process of learning military organization, discipline and order, and lessons well learned. He also took advantage of Kansas State University Extension Courses to complete his high school diploma.

After three years in the Army, the opportunity to attend Lane College was gladly taken by Mr. Hollowell. Then World War II drew him back into the Army. This time he took advantage of Officer Candidate programs as well as other advanced courses in infantry and armor. He left the military a Captain.

The war had also given him the opportunity to meet the woman who would be his wife, Louise Thornton Hollowell. He credits her with being the anchor on which this successful champion of Civil Rights has depended.

And as he depended on the companionship of a strong, loving marriage, he called upon his own faith and belief in following a higher call to attend Loyola Law School in Chicago. Because his wife was from Atlanta, he decided to practice law in Georgia. And from a humble law office, he launched a legal career.

And what an outstanding career it turned out to be. Yes, he did defend Dr. King on numerous occasions. But he counts the defense of Hamilton Holmes and Charlayne Hunter-Gault among his proudest moments. Both were rejected application into the University of Georgia. The racial barriers were immense but Mr. Hollowell overcame each one. Mr. Hamilton now serves as a distinguished federal judge and Ms. Hunter-Gault is often seen on National Public Television's evening news.

At the time Mr. Hollowell said, "The day they crossed the line from fear to fortitude everything became possible."

That decision made all the difference to those two young people. And the decision Mr. Hollowell made to fight for social justice made all the difference to the people he defended.

The members of the House welcomed Mr. Hollowell with a standing ovation. He was accompanied by his wife, Louise.

CONSENT CALENDAR

No objection was made to **HB 2223** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2089, HB 2090** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2089. An act concerning juvenile justice; relating to juvenile corrections advisory boards; amending K.S.A. 75-7044 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: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Peterson, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Flora, Light, Sawyer.

The bill passed.

HB 2090. An act concerning the department of corrections; relating to inmate work crews; agency relationship; amending K.S.A. 75-52,116 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Larkin, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Peterson, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Klein.

Present but not voting: None.

Absent or not voting: Flora, Light, Sawyer.

The bill passed.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Myers in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2120, HB 2224; SB 8; HB 2165** be passed.

Committee report to **HB 2155** be adopted; and the bill be passed as amended.

Committee report to **HB 2045** be adopted; also, on motion of Rep. Sloan be amended on page 1, in line 14, before "Any", by inserting "(a)"; in lines 18 and 19, by striking ": (1) Shall" and inserting "shall"; in line 20, by striking "; or (2) if" and inserting ". If"; in line 22, before the period, by inserting "unless the board of county commissioners determines it is in the county's best interest to waive such reimbursement";

Also, on motion of Rep. Powell to amend **HB 2045**, the motion was withdrawn, and the bill be passed as amended

Committee report to **HB 2106** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2219** be adopted; and the substitute bill be passed.

Committee report to **HB 2017** be adopted; also, be passed over and retain a place on the calendar.

REPORTS OF STANDING COMMITTEES

The Committee on **Ethics and Elections** recommends **HB 2249** be passed.

The Committee on **Health and Human Services** recommends **HB 2207** be passed.

The Committee on **Health and Human Services** recommends **HR 6005** be adopted.

The Committee on **Health and Human Services** recommends **HCR 5008** be adopted and, because the committee is of the opinion that the concurrent resolution is of a noncontroversial nature, be placed on the consent calendar.

The Committee on **Judiciary** recommends **HB 2032** be amended on page 2, in line 22, by striking all after the period; and by striking all of lines 23 through 43;

On page 3, by striking all of lines 1 through 12, and inserting the following:

"New Sec. 3. (a) Except as provided in article 35 of chapter 58 of the Kansas Statutes Annotated, and amendments thereto, whenever any program or project is undertaken by any plaintiff who exercises the power of eminent domain which program or project will result in the displacement of any person by acquisition of real property, such plaintiff shall provide fair and reasonable relocation payments and assistance to or for displaced persons.

(b) Fair and reasonable relocation payments and assistance to or for displaced persons as provided under sections 202, 203, 204, 301, 302, 303 and 304 of the federal uniform relocation assistance and real property acquisition policies act of 1970, and amendments thereto, shall be deemed fair and reasonable relocation payments and assistance pursuant to this section.

(c) This section shall be part of and supplemental to the eminent domain procedure act.;"

Also on page 3, in line 13, after "26-506", by striking the comma and inserting "and"; also in line 13, by striking ", 58-3502 and 58-3505";

On page 1, in the title, in line 10, by striking the comma and inserting "and"; also in line 10, by striking "and 58-3502"; in line 11, by striking "; also repealing K.S.A. 58-3505"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2034** be amended on page 1, in line 18, by striking "or" and inserting a comma; also in line 18, after "corporation", by inserting "or other legal entity"; in line 41, by striking "of a de-"; in line 42, by striking "cedent's estate";

On page 6, in line 18, by striking all after "(10)"; by striking all of lines 19 and 20 and inserting "to alienate the homestead without the joint consent of husband and wife when that relationship exists if the power of attorney specifically: gives the attorney in fact the power to sell, transfer and convey the homestead in question; gives the legal description and street address of the property; states that by the execution of the power of attorney it is the intention of the parties that the act shall constitute the joint consent required by Article 15, Section 9, of the Kansas Constitution and the power of attorney is executed by

both the husband and wife in the same instrument;" in line 33, after "principal" by inserting "or to make, execute, modify or revoke a durable power of attorney for health care decisions pursuant to K.S.A. 58-625, *et seq.*, and amendments thereto, for the principal"

On page 8, in line 27, by striking "a conservator,;" by striking all of lines 28 through 32 and inserting "a guardian or conservator, or both for consideration by the court. If a petition to appoint a guardian or conservator, or both is filed, the court shall make the appointment in accordance with the principal's most recent nomination in the power of attorney, so long as the individual nominated is a fit and proper person.;"

On page 9, in line 35, by striking "modified,;" also in line 35, by striking "or suspended"; in line 43, after the semicolon, by inserting "or";

On page 10, in line 4, by striking " or" and inserting a period; in line 5, by striking "(4)" and inserting "(c)"; in line 13, by striking "(c)" and inserting "(d)"; in line 22, by striking "(d)" and inserting "(e)"; in line 30, by striking "(e)" and inserting "(f)"; in line 36, by striking "(f)" and inserting "(g)";

On page 17, after line 38, by inserting the following:

"New Sec. 16. This act adopts by reference 50 U.S.C. 591 of the soldiers and sailors civil relief act.;" and by renumbering the remaining sections accordingly; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2068** be amended on page 5, in line 40, by striking "or sale"; in line 42, by striking "or" and inserting a comma; also in line 42, after "department" where it appears for the last time, by inserting ", medical emergency response team or the Kansas forest service";

On page 6, in line 1, by striking all after "serviceable" where it appears for the last time; by striking all in line 2; in line 3, by striking all before the period; in line 6, before the semicolon where it appears for the last time, by inserting ". This subsection shall apply to any breathing apparatus or any mechanical or electrical device which functions to monitor, evaluate, or restore basic life functions, only if it is recertified to the manufacturer's specifications by a technician certified by the manufacturer"; in line 7, by striking "or purchase"; by striking all in lines 17 through 30;

And by renumbering sections accordingly; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2100** be amended on page 1, in line 14, by striking "some combination of"; in line 15, after "dwelling", by inserting; "or any portion thereof"; in line 20, by striking "confusingly"; also in line 20, by striking all after the period; by striking all of lines 21 through 27; in line 32, after "Any", by inserting "clause or provision in an"; in line 34, after "liability", by inserting "as to any system or component of the residential dwelling covered by such report"; and the bill be passed as amended.

The Committee on **Transportation** recommends **HB 2113** be passed.

The Committee on **Transportation** recommends **HB 2073** be amended by substituting a new bill to be designated as "**Substitute for HOUSE BILL No. 2073**," as follows:

"Substitute for HOUSE BILL No. 2073

By Committee on Transportation

"AN ACT relating to the division of vehicles; concerning driver's licenses and identification cards; selective service registration requirements.;" and the substitute bill be passed.

(Sub. **HB 2073** was thereupon introduced and read by title.)

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 bills were thereupon introduced and read by title:

HB 2405, An act concerning lotteries; authorizing electronic gaming machines at certain racetracks; amending K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp. 19-101a and 79-4805 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2406, An act concerning the department of corrections; relating to in-service training for corrections officers; amending K.S.A. 75-5212 and repealing the existing section, by Committee on Appropriations.

COMMITTEE ASSIGNMENT CHANGE

February 17, 2003

Enclosed is the revised committee assignment list for the Joint Committee on Corrections and Juvenile Justice.

Loyd, Chairman; Swenson, Light, and Newton.

DOUG MAYS
Speaker of the House

REPORT ON ENROLLED BILLS

HB 2026 reported correctly enrolled and properly signed on February 18, 2003.

REPORT ON ENROLLED RESOLUTIONS

HR 6010 reported correctly enrolled and properly signed on February 18, 2003.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Wednesday, February 19, 2003.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

