

Journal of the House

FORTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 12, 2003, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.

The roll was called with 124 members present.

Rep. Bethell was excused on excused absence by the Speaker.

Prayer by guest chaplain, Dr. Joe Kutter, pastor, First Baptist Church, Topeka, and guest of Rep. Burgess:

Creator and Sustainer of the Universe,

We give You thanks for our splendid Kansas neighborhood:

For those who cultivate the fields of wheat and corn;

Those who tend the massive herds of cattle,

Those who produce the goods of the great Wichita industries,

And those who harvest the oil from the fields,

For those who do the business of Johnson County,

And others who guard the values of small towns.

We give you thanks.

Now we ask for your blessings on the women and men of this great House.

Grant to each the discernment required to advance the vitality of our state.

In the words of the ancient prophet, we pray that in this house today, "justice will indeed flow down like waters and righteousness like an ever flowing stream."

Let each one here today remember the constituents who are to be served by today's deliberations.

Those whose taxes are high and those who wish that they made enough to pay taxes at all!

The healthy and ill

The strong and the weak

The urban and the rural

Those of every culture and tradition, every religion and language.

Let every Kansas soul have its voice here today.

We especially pray for our women and men who serve in the military.

Grant them safety and if possible, the safety of peace.

Accept this prayer, offered in the Spirit that teaches us to love and respect one another. Amen.

The Pledge of Allegiance was led by Rep. Myers.

INTRODUCTION OF GUESTS

Rep. Ballard welcomed a delegation of the pharmaceutical industry of Russia to the House. Their interpreter introduced each by name.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Commerce and Labor: **HB 2435, HB 2436.**
 Education: **HB 2434, H 2437.**
 Taxation: **HB 2430, HB 2431, HB 2432.**
 Select Committee on Pensions: **HB 2433.**

CONSENT CALENDAR

Objection was made to **SB 135** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **SB 118; SCR 1604** appearing on the Consent Calendar for the first day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2329. An act concerning the Kansas wage payment act; definitions; amending K.S.A. 44-313 and 44-323 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, 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, Larkin, Light, 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, Sawyer, 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: Carter.

Present but not voting: None.

Absent or not voting: Bethell, Landwehr.

The bill passed.

SB 4. An act concerning the cash-basis law; relating to exemptions therefrom; amending K.S.A. 10-1102 and 10-1116a and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, 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, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, 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, Sawyer, 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: Freeborn, Kassebaum, Loyd.

Present but not voting: None.

Absent or not voting: Bethell.
The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote No on **SB 4**. I know that school districts are at risk of violating the cash basis law due to lack of payment by the state. I regret this situation. However, the cash basis law was enacted during times of great economic trial so that government would be fiscally responsible. We are again in economic trying times, therefore, it is not the time to weaken the cash basis law. Time would be better spent crafting a sound budget that would ensure timely payments to school districts.—WILLIAM A. KASSEBAUM, JOANN LEE FREEBORN

SB 31, An act concerning crimes, criminal procedure and punishment; relating to inherently dangerous felonies; amending K.S.A. 2002 Supp. 21-3436 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, 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, Light, 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, Sawyer, 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: Bethell.

The bill passed.

SB 175, An act concerning the state general fund; relating to estimates of revenues; amending K.S.A. 75-6701 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 110; Nays 14; Present but not voting: 0; Absent or not voting: 1.

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

Nays: Faber, Freeborn, Goering, Howell, Huebert, Huy, Landwehr, P. Long, McLeland, F. Miller, Osborne, Ostmeyer, Powers, Siegfried.

Present but not voting: None.

Absent or not voting: Bethell.

The bill passed, as amended.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2176** be adopted; also, roll call was demanded on motion of Rep. Rehorn to amend on page 1, by striking all in lines 22 through 43;

By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 12; following line 16, by inserting:

“Section 1. As used in this act:

(a) “Local anesthesia” means the administration of an anesthetic agent into a localized part of the human body by topical application or local infiltration in close proximity to a nerve, which produces a transient and reversible loss of sensation.

(b) “Minimal sedation” means the administration of oral sedative or oral analgesic drugs in doses appropriate for the unsupervised treatment of insomnia, anxiety or pain.

(c) “Minor surgery” means surgery which can be safely and comfortably performed on a patient who has received local or topical anesthesia, without more than minimal sedation and where the likelihood of complications requiring hospitalization is remote.

(d) “Office-based surgery” means any surgery or other special procedure requiring anesthesia, analgesia or sedation which is performed by a physician in a clinical location other than a medical facility licensed pursuant to K.S.A. 65-425, and amendments thereto, and which results in a patient stay of less than 24 hours. The term does not include minor surgery.

(e) “Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Kansas.

(f) “Secretary” means the secretary of health and environment.

(g) “Special procedure” means a patient care service which requires contact with the human body with or without instruments in a potentially painful manner, for a diagnostic or therapeutic procedure requiring anesthesia services (i.e., diagnostic or therapeutic endoscopy, invasive radiologic procedures, manipulation under anesthesia or endoscopic examination). The term does not include minor surgery.

(h) “Surgery” means a manual or operative procedure which involves the excision or resection, partial or complete, destruction, incision or other structural alteration of human tissue by any means, including the use of lasers, performed upon the human body for the purpose of preserving health, diagnosing or treating disease, repairing injury, correcting deformity or defects, prolonging life or relieving suffering, or for aesthetic, reconstructive or cosmetic purposes. Surgery includes, but is not limited to, incision or curettage of tissue or an organ, suture or other repair of tissue or an organ, a closed or open reduction of a fracture, extraction of tissue from the uterus and insertion of natural or artificial implants.

(i) “Topical anesthesia” means an anesthetic agent applied directly or by spray to the skin or mucous membranes, intended to produce a transient and reversible loss of sensation to a circumscribed area.

Sec. 2. (a) The secretary, by rules and regulations, shall establish standards for clinics and other locations where office-based surgery or special procedures, or both, are performed. Such standards shall include such requirements as the secretary determines necessary to promote the safety of patients, including, but not limited to, standards addressing:

(1) Qualifications of physicians and other personnel and supervision of non-physician personnel;

(2) facility safety and sanitation;

(3) equipment requirements, sanitation, testing and maintenance;

(4) patient screening, assessment and monitoring;

(5) selection of procedures to be performed;

(6) anesthesia services;

(7) peri-operative care;

(8) emergencies and patient transfers; and

(9) quality assurance and peer review.

(b) In adopting standards pursuant to this section, the secretary shall give consideration to the guidelines for office-based surgery and special procedures approved by the Kansas medical society house of delegates on May 5, 2002.

(c) Any rules and regulations adopted by the secretary pursuant to this act shall provide for protection of the identities of patients and health care providers.

Sec. 3. (a) Any person who violates any provision of the rules and regulations adopted under this act shall incur a civil penalty in an amount not more than \$5,000 for every such violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The secretary, upon a finding that a person has violated any provision of rules and regulations adopted under this act may impose a penalty within the limits provided in this section. In determining the amount of the civil penalty, the secretary shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and any corrective actions taken.

(c) No penalty shall be imposed under this section until written notice and an opportunity for hearing have been provided to the person alleged to have committed the violation. Such notice shall state the violation, the penalty to be imposed and the right of the person to a hearing on the matter. Such person, within 15 days after service of the order, may make written request to the secretary for a hearing thereon. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 4. Any clinic or other location where office-based surgery or special procedures, or both, are performed at the time rules and regulations adopted under this act take effect shall be given reasonable time, as determined by the secretary under the particular circumstances, but not to exceed one year from the effective date of such rules and regulations, within which to comply with such rules and regulations.”;

By renumbering the remaining section as section 5;

In the title, in line 17, by striking all after “concerning”; by striking all in line 18; in line 19, by striking all before the period and inserting “certain medical procedures; providing for adoption of standards relating thereto; providing remedies for violations”;

On roll call, the vote was: Yeas 49; Nays 75; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beggs, Betts, Boyer, Carlin, Compton, Cox, Crow, Davis, Dillmore, Dreher, Flaharty, Flora, Gilbert, Gordon, Henderson, Hill, Holland, Horst, Huff, Huntington, D. Johnson, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Loganbill, Minor, Neighbor, Newton, Nichols, O’Malley, Peterson, Pottorff, Rehorn, Sawyer, B. Sharp, S. Sharp, Showalter, Sloan, Storm, Thull, Toelkes, Ward, Winn, Yoder, Yonally.

Nays: Ballou, Barbieri-Lightner, Brunk, Burgess, Burroughs, Campbell, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Goering, Goico, Grant, Hayzlett, Henry, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kauffman, Landwehr, Larkin, Light, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O’Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Powell, Powers, Reardon, Reitz, Ruff, Schwab, Schwartz, Shriver, Shultz, Siegfried, Svaty, Swenson, Tafanelli, Thimesch, Vickrey, Wilk, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Bethell.

The motion of Rep. Rehorn did not prevail.

Also, roll call was demanded on motion of Rep. Horst to amend **HB 2176** on page 1, in line 24, by striking “Abortion clinic” and inserting “Clinic”; in line 26, before the period, by inserting: “or in which other medical procedures which carry a risk equal to or greater than a first trimester abortion, as determined by the state board of healing arts, are performed”; in line 30, by striking “an abortion” and inserting “a”;

On page 2, in line 5, by striking "abortion"; in line 8, by striking "abortion"; in line 12, by striking "abortion"; in line 26, by striking "abortion"; in line 27, by striking "facilities" and inserting "clinics"; in line 33, by striking "abortion"; in line 35, by striking "abortion" where it appears for the first time; also in line 35, by striking "abortion" where it appears for the last time; in line 37, by striking "an abortion" and inserting "a"; in line 40, by striking "abortion";

On page 3, in line 3, after "abortions" by inserting "or other medical procedures"; in line 5, after "abortion" by inserting "or other medical procedure"; in line 14, by striking "abortion"; in line 25, before the period, by inserting: "; for an abortion, a test for anemia; and for an abortion, Rh typing, unless reliable written documentation of blood type is available"; by striking all in lines 26 through 28; in line 29, by striking "(D)" and inserting "(B)"; also in line 29, before the period, by inserting "and which relate to the procedure being performed";

On page 4, in line 3, by striking "the"; in line 4, by striking "procedure" and inserting: "and other medical procedures performed at a clinic"; in line 7, by striking "abortion" and inserting "medical"; in line 10, before the period, by inserting: "and for the safe conduct of other medical procedures performed at the clinic"; in line 15, before the period, by inserting: "and the use of appropriate precautions for other medical procedures"; in line 17, by striking "abortion" and inserting "medical"; in line 30, by striking "abortion"; in line 32, by striking "abortion"; in line 37, by striking "A" and inserting: "For abortion patients, a"; in line 43, by striking "Written" and inserting: "For abortion patients, written";

On page 5, in line 6, by striking "abortion"; also in line 6, by striking "and duration"; in line 7, by striking all before the period; in line 9, by striking "abortion"; in line 18, by striking "A" and inserting: "For an abortion patient, a"; in line 21, by striking "A" and inserting: "For an abortion patient, a"; in line 26, by striking "abortion"; in line 28, by striking "abortion"; in line 29, by striking "an abortion" and inserting "a"; in line 32, by striking "an abortion" and inserting "a"; in line 35, by striking "abortion";

On page 6, in line 1, by striking "abortion"; in line 17, by striking "abortion"; in line 21, by striking "an abortion" and inserting "a"; in line 42, by striking "abortion";

On page 7, preceding line 17, by inserting the following:

"(r) The state board of healing arts shall specify by rule and regulation a list of medical procedures which carry a risk equal to or greater than a first trimester abortion.";

On page 1, in the title, in line 17, by striking "abortion";

On roll call, the vote was: Yeas 49; Nays 73; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beggs, Betts, Boyer, Carlin, Compton, Cox, Crow, Davis, Dillmore, Dreher, Flaharty, Flora, Freeborn, Gilbert, Gordon, Henderson, Holland, Horst, Huff, Huntington, D. Johnson, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Loganbill, Minor, Neighbor, Newton, Nichols, O'Malley, Peterson, Pottorff, Rehorn, Sawyer, B. Sharp, S. Sharp, Showalter, Sloan, Storm, Thull, Toelkes, Ward, Winn, Yoder, Yonally.

Nays: Ballou, Barbieri-Lightner, Brunk, Burgess, Burroughs, Campbell, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Gatewood, Goering, Goico, Grant, Haylett, Henry, Hill, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kauffman, Landwehr, Larkin, Light, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Powell, Powers, Reardon, Reitz, Ruff, Schwab, Schwartz, Shriver, Shultz, Siegfried, Svaty, Swenson, Tafanelli, Thimesch, Vickrey, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Bethell, O'Neal, Wilk.

The motion of Rep. Horst did not prevail.

Also, on motion of Rep. Loganbill to amend **HB 2176**, the motion did not prevail.

Also, roll call was demanded on motion to recommend **HB 2176** favorably for passage.

On roll call, the vote was: Yeas 77; Nays 44; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballou, Barbieri-Lightner, Brunk, Burgess, Burroughs, Campbell, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Goe-

ring, Goico, Grant, Hayzlett, Henry, Hill, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kauffman, Landwehr, Larkin, Light, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Ruff, Schwab, Schwartz, S. Sharp, Shriver, Shultz, Siegfried, Svaty, Swenson, Tafanelli, Thimesch, Vickrey, D. Williams, J. Williams, Wilson.

Nays: Ballard, Beggs, Betts, Boyer, Carlin, Compton, Cox, Crow, Davis, Dillmore, Dreher, Flaharty, Flora, Gilbert, Gordon, Henderson, Holland, Huff, Huntington, D. Johnson, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Loganbill, Minor, Newton, Nichols, O'Malley, Peterson, Rehorn, Reitz, Sawyer, B. Sharp, Showalter, Sloan, Storm, Thull, Toelkes, Ward, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Bethell, Neighbor, O'Neal, Wilk.

The motion prevailed and **HB 2176** be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Commerce and Labor** recommends **SB 133** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

The Committee on **Insurance** recommends **SB 26** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

The Committee on **Judiciary** recommends **SB 17** be passed.

The Committee on **Judiciary** recommends **SB 21** be amended on page 12, in line 4, by striking all after the period; in line 5, by striking "commission" and inserting "Whenever a vacancy in the office of district magistrate judge exists at the time the appointment to fill such vacancy is made as provided in K.S.A. 20-2914, and amendments thereto, the appointment"; and the bill be passed as amended.

The Committee on **Local Government** recommends **SB 53** be passed.

The Committee on **Transportation** recommends **SB 130**.

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 and concurrent resolutions were thereupon introduced and read by title:

HB 2438, An act concerning income taxation; relating to property tax paid on commercial and industrial machinery and equipment; amending K.S.A. 2002 Supp. 79-32,206 and repealing the existing section, by Committee on Taxation.

HB 2439, An act concerning the death penalty; relating to mental retardation; amending K.S.A. 21-4623 and repealing the existing section, by Committee on Appropriations.

HB 2440, An act concerning courts; prescribing and fixing certain surcharges; establishing the judicial branch surcharge fund; relating to indigent defendants; application fee; amending K.S.A. 2002 Supp. 22-4529 and repealing the existing section, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 5018—

By Committee on Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to assessment and taxation of property.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate 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: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

“**§ 1. System of taxation; classification; exemption** (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, ~~1993~~ 2005, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- | | |
|---|---------|
| (1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located | 11 1/2% |
| (2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution..... | 30% |
| (3) Vacant lots..... | 12% |
| (4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law..... | 12% |
| (5) Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed | 33% |
| (6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use..... | 25% |
| (7) All other urban and rural real property not otherwise specifically subclassified | 30% |

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- | | |
|--|---------|
| (1) Mobile homes used for residential purposes..... | 11 1/2% |
| (2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% | 30% |
| (3) Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed | 33% |
| (4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985..... | 30% |

- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property..... ~~25%~~ 15%
- (6) All other tangible personal property not otherwise specifically classified 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

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

"Explanatory statement. The constitution of this state provides for commercial and industrial machinery and equipment to be assessed uniformly as to its subclass at a percentage of value of 25% and this proposition would reduce such assessed percentage of value to 15%."

"A vote for this proposition would reduce the assessed percentage of value for assessment and taxation purposes for commercial and industrial machinery and equipment from the current 25% to 15%."

"A vote against this proposition would continue in effect the current percentage of value for assessment and taxation purposes for commercial and industrial machinery and equipment of 25%."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate 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 to be held on November 2, 2004.

HOUSE CONCURRENT RESOLUTION No. 5019—

By Committee on Environment

A CONCURRENT RESOLUTION urging the Risk Management Agency of the United States Department of Agriculture to assure that crop insurance policies do not require irrigation after crop failure has occurred.

WHEREAS, Many segments of the United States, including Kansas, have suffered catastrophic crop losses; and

WHEREAS, Some parts of the state are experiencing a fourth year of drought; and

WHEREAS, Federal crop insurance is a valuable risk management tool for farmers; and

WHEREAS, Crop insurance should provide producers of all crops options for various insurance products that accurately reflect individual risk considerations when making crop insurance purchasing decisions; and

WHEREAS, The development of additional risk management tools to supplement or be an alternative to the current crop insurance program would enhance the ability of farmers to mitigate risk; and

WHEREAS, Water is a precious resource: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature urges the Risk Management Agency of the United States Department of Agriculture to assure that crop insurance policies do not require irrigation of a crop after the crop has failed; and

Be it further resolved: That the Secretary of State is directed to provide an enrolled copy of this resolution to the Director of the Topeka Regional office of the Risk Management Agency of the United States Department of Agriculture, the United States Secretary of Agriculture, the President of the United States and each member of the Kansas Congressional Delegation.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6013—

By Representative Thimesch

A RESOLUTION memorializing the Congress of the United States to cease sales of arms and equipment to foreign countries.

WHEREAS, During the 1970's, American arms sales to Iran totaled more than \$15 billion; and

WHEREAS, Iraq purchased \$30.4 billion worth of arms from United States between 1983 and 1990; and

WHEREAS, The United States provided 36% of all conventional weapons sold to the Middle East from 1987 to 1990; and

WHEREAS, The United States delivered or licensed for export to China almost \$350 million in Munitions List equipment since 1990 by the Department of Defense under the Foreign Military Sales Program; and

WHEREAS, The Department of State has approved for export to China about \$313 million in Munitions List items since 1990; and

WHEREAS, European Union and United States military item sales to China since 1989 have provided some of China's defense needs; and

WHEREAS, Press reports have asserted that despite controls United States technology has been transferred to China and has improved the reliability of China's nuclear missiles; and

WHEREAS, The United States and international export control policies and practices have facilitated the People's Republic of China's efforts to obtain military useful technology; and

WHEREAS, It was alleged in testimony before the United States - China Security Review Commission on July 17, 2002, that the United States Commerce Department had approved more than \$15 billion worth of strategically sensitive United States exports to the People's Republic of China; and

WHEREAS, In its 2002 report to Congress, the China Security Review Commission stated that current United States policies and laws fail to adequately monitor the transfer of economic resources and security-related technologies to China; and

WHEREAS, In 2001, the United States ranked first in arms transfer agreements with nearly \$12.1 billion in agreements and first in the value of all international arms deliveries, making \$9.7 billion in such deliveries, including deliveries to Bahrain, Egypt, Israel, Jordan, Kuwait, Morocco, Saudi Arabia and the United Arab Emirates; and

WHEREAS, There continues to be uncertainty about arms of mass destruction in Iraq and the origin of the components which may be used in the construction of such weapons: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we urge the President of the United States and the United States Congress to halt all sales of arms and equipment to foreign countries and encourage likewise other nations to halt such sales; and

Be it further resolved: That we urge full, disclosed investigation by the United Nations and other responsible international organizations of the extent of such arms sales and the negative impact such activity has on the security of the world; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide an enrolled copy of this resolution to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to each member of the Kansas Congressional Delegation.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, March 13, 2003.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

