

Journal of the House

FIFTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, April 30, 2003, 10:00 a.m.

The House met pursuant to **HCR 5021** with Speaker Mays in the chair.
The roll was called with 124 members present.
Rep. Hill was excused on excused absence by the Speaker.
Present later: Rep. Hill.

Prayer by guest chaplain, the Rev. Richard E. Taylor, Jr., Kansas West Conference, United Methodist Church, and guest of Rep. Mays:

Our Father in Heaven, we thank You for this day. On every vote we make some people happy and some not. Help us please those who love Kansas more than they love money.

Help us respect those we think are wrong. We may reject a person's position but help us never reject the person.

Help us vote as our people back home would vote if they had all the information we have. May we remember the words of Edmund Burke who said representatives owe the people not only hard work, but good judgment. And representatives do not serve the people if they sacrifice good judgment to the opinion of others.

When this session ends may each lawmaker silently hear, WELL DONE, GOOD AND FAITHFUL SERVANT. YOU VOTED FOR WHAT IS BEST FOR KANSAS.

And Father, I thank you for the honor of sharing this prayer with those who have chosen the important work of being public servants.

In The Master's Name, Amen.

The Pledge of Allegiance was led by Rep. Huy.

INTRODUCTION OF GUESTS

Rep. Huebert introduced Pfc. Patrick Miller, Park City, who was part of a 12-person Army supply convoy of the 507th Maintenance Company who were ambushed by Iraqi forces after taking a wrong turn in the desert. Seven members of the convoy were killed. Pfc. Miller was among the five who were captured. He was rescued after 22 days in captivity. Pfc. Miller, who was accompanied by his wife, Jessa, addressed a few remarks to the members of the House.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2471. An act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008, June 30, 2009, and June 30, 2010; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; amending K.S.A. 2002 Supp. 79-3425c and repealing the existing section, by Committee on Appropriations.

HB 2472, An act concerning taxation; amending K.S.A. 2002 Supp. 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2468, HB 2469, HB 2470; SB 272.**

Federal and State Affairs: **SB 280.**

Taxation: **SB 94.**

MESSAGES FROM THE GOVERNOR

HB 2055, HB 2118, HB 2182, HB 2189, HB 2245, HB 2343 approved on April 4, 2003.

Also, **Sub. HB 2064; Sub. HB 2073; HB 2169, HB 2214, HB 2220** approved on April 10, 2003.

Also, **HB 2015, HB 2034, HB 2035; Sub. HB 2036; HB 2090, HB 2120, HB 2132, HB 2138, HB 2158, HB 2171, HB 2192; Sub. HB 2197; HB 2224, HB 2294, HB 2314, HB 2329, HB 2353, HB 2448** approved on April 14, 2003.

Also, **HB 2003, HB 2009, HB 2018, HB 2071, HB 2106, HB 2122, HB 2130, HB 2131, HB 2150, HB 2155, HB 2179, HB 2207, HB 2233, HB 2241, HB 2254, HB 2310, HB 2367** approved on April 16, 2003.

Also, **HB 2456** approved on April 17, 2003.

Also, **S. Sub. for HB 2208; HB 2332** approved on April 18, 2003.

Also, **HB 2032, HB 2038, HB 2068, HB 2078, HB 2088, HB 2121, HB 2135, HB 2160, HB 2161; S. Sub. for Sub. HB 2219; HB 2234, HB 2247, HB 2297; S. Sub. for HB 2308; HB 2369, HB 2374, HB 2426** approved on April 21, 2003.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2212**, An act concerning cities; relating to annexation amending K.S.A. 12-523 and repealing the existing section, was received and read.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I am vetoing **HB 2212**.

HB 2212 creates a set of standards for annexation in Shawnee County while not enforcing those same standards on all counties in Kansas. Similar legislation was passed in 1987, and as a member of the House of Representatives, I did not support that legislation. I believe that all cities and counties in the State of Kansas should follow the same rules, especially when it comes to issues of annexation. For this reason, I veto **HB 2212**.

Due to the fact that **HB 2212** would only be applicable to one county, it is likely to be found unconstitutional. I believe a challenge should be considered for the law passed in 1987.

KATHLEEN SEBELIUS

Governor

Dated: April 18, 2003

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2288**, An act concerning elections; relating to conformity with the help America vote act of 2002; amending K.S.A. 25-216, 25-414, 25-1122d, 25-1216, 25-2111, 25-2908 and 25-3008 and K.S.A. 2002 Supp. 25-106, 25-409, 25-2309 and 25-2706 and repealing the existing sections, was received and read.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I am vetoing

HB 2288.

We have a rich history and tradition in Kansas of working to increase citizen participation in our democracy. Voting has indeed become easier and more convenient in our state over the past decade due to measures like advance voting.

It is my belief that **HB 2288**, the Kansas provisions of the federal Help Americans Vote Act, goes against our state's long standing tradition of striving to achieve greater voter participation in our democratic process. I have long been a proponent of personal privacy and I keenly understand how protective Kansans are of their privacy. The needless identification requirements of **HB 2288** will only work to create mistrust among many of the electorate and serve as a barrier for our continued desire for increased voter participation.

Therefore, I veto **HB 2288**.

The requirements of the federal government in the Help Americans Vote Act are very clear, and I wholeheartedly embrace them. However, **HB 2288** reaches beyond those fundamental guidelines and may actually run the risk of hampering citizen involvement in their government.

There exists an opportunity to obtain federal funding to assist with the implementation of provisions relating to HAVA. Initial funds to the states from the federal government to implement certain aspects of HAVA, such as bringing Kansas polling places into ADA compliance, will be automatic. Other funds will be available to Kansas, contingent upon compliance with the federal minimum requirements.

A federal board on election administration will ultimately determine compliance with the federal requirements of HAVA. This board has not yet been appointed or confirmed at the federal level. Kansas has time to enact legislation that will meet the federal requirements and not place receipt of these federal funds in jeopardy.

Therefore, I challenge the legislature to work with me and the Secretary of State during the upcoming legislative veto session to craft a law that will strike an appropriate balance between satisfying the minimum federal requirements for HAVA, ensuring citizen's privacy, and carrying on the proud Kansas tradition of empowering citizen involvement in their government through voting.

KATHLEEN SEBELIUS
Governor

Dated: April 18, 2003

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2176**, An act concerning abortion clinics; providing for regulation, licensing and standards for the operation thereof; providing penalties for violations and authorizing injunctive actions, was received and read.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I am vetoing **HB 2176**.

Health care facilities should be safe, clean and appropriate for the best medical care possible in every circumstance and for every medical procedure. Kansans experience and appreciate some of the highest standards for medical care in the country. Standards for health care facilities in Kansas have been developed by physicians and medical personnel. The health care facilities addressed in this bill are already subject to those high standards. I have long fought to make sure that doctors and patients, not insurance companies and not the Kansas Legislature, make decisions regarding an individual's health care procedures. For these same reasons I veto **HB 2176**, in which the legislature, instead of physicians and medical personnel, would regulate health care procedures.

KATHLEEN SEBELIUS
Governor

Dated: April 21, 2003

MESSAGE FROM THE GOVERNOR

April 16, 2003

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Directive No. 03-339 for your information.

EXECUTIVE DIRECTIVE NO. 03-339

Authorizing a Transfer of Funds

KATHLEEN SEBELIUS
Governor

The above Executive Directive is on file and open for inspection in the office of the Chief Clerk.

MESSAGE FROM THE SENATEThe Senate accedes to the request of the House for a conference on **HB 2400** and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.**INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6025—

By Representatives Holland, 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, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, 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 and Yonally

A RESOLUTION in memory of Jacob Lee Butler.

WHEREAS, Jacob Lee Butler, 24, of Wellsville, a Sergeant in the United States Army, was killed April 1, 2003, in Assamawah, Iraq, while participating in Operation Iraqi Freedom. He gave his life so that others could enjoy freedom and democracy. He was the first Kansan and the first soldier from Fort Riley to be killed in action in Iraq. Sergeant Butler was a scout for the 3rd Brigade of the 1st Armored Division, a dangerous job doing reconnaissance to locate and obtain information about enemy forces; and

WHEREAS, Sergeant Butler enlisted in the United State Army in November 1998. He was stationed at Fort Hood, Texas, for two years before reenlisting in 2001 and being transferred to Fort Riley. As a cavalry scout he was deployed to Kuwait in 1999 and again in 2002. He returned to that area for the third time in March of 2003; and

WHEREAS, Sergeant Butler loved being in the Army; he was a proud member of the United States Army and a loyal member of the Association of the United States Army. His awards and decorations included the Bronze Star Medal, Meritorious Service Medal, Army Commendation Medal with two oak leaf clusters, Good Conduct Medal, National Defense Service Medal, Armed Forces Expeditionary Medal with bronze service star and Purple Heart; and

WHEREAS, Sergeant Butler was born April 26, 1978, in Merriam. He moved with his parents to Wellsville in 1990. He attended Wellsville public schools and graduated from Wellsville High School in 1996. He is remembered in Wellsville as a likable, hard working

young man and as the boy next door who helped his father and was a trusted employee at the local grocery store. The entire Wellsville community has joined in giving homage to this young man and in offering condolences to his family; and

WHEREAS, Sergeant Butler was not married. He is survived by his parents, James C. and Cynthia D. Butler; four brothers, James C. Butler, Jr., Joshua M. Butler, Joseph D. Butler and Justin M. Butler; his paternal grandparents, Robert J. and Nancy J. Butler; four uncles and aunts and several cousins: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we extend our deepest sympathy to the family of Sergeant Butler and express our appreciation and gratitude for the service and sacrifice he made for his country, state and community; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send 12 enrolled copies of this resolution to Mr. and Mrs. James C. Butler, Wellsville, Kansas 66092.

INTRODUCTION OF ORIGINAL MOTIONS

In accordance with House Rule 2306, Rep. Aurand moved that **HB 2467, HB 2412; H. Sub. for SB 9; HCR 5009; SB 191; HB 2466, HB 2237** be withdrawn from the Calendar under the heading of General Orders and be rereferred to respective committees.

Rep. McKinney requested the question be divided and that **HB 2466** be considered separately. The question was divided.

On motion of Rep. Aurand the following bills were withdrawn from the Calendar under the heading of General Orders and rereferred to Committees as indicated:

Agriculture: **HCR 5009.**

Appropriations: **HB 2467; SB 191.**

Economic Development: **HB 2412.**

Federal and State Affairs: **H. Sub. for SB 9.**

Taxation: **HB 2237.**

The motion of Rep. Aurand to withdraw **HB 2466** from the Calendar under the heading of General Orders was withdrawn.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations recommends SB 195, SB 239** be passed.

The Committee on **Appropriations** recommends **SB 263** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 263," as follows:

"HOUSE Substitute for SENATE BILL No. 263

By Committee on Appropriations

"AN ACT relating to public utilities; concerning prior determination of rate-making principles and treatment by the corporation commission; repealing section 1 of 2003 Substitute for Senate Bill No. 104."; and the substitute bill be passed.

H. Sub. for SB 263 was thereupon introduced and read by title.)

The Committee on **Appropriations** recommends **SB 268** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 268," as follows:

"Substitute for SENATE BILL No. 268

By Committee on Appropriations

"AN ACT concerning the senior pharmacy assistance program; authorizing certain rules and regulations; prescribing powers, duties and functions for the secretary of aging; amending K.S.A. 2002 Supp. 75-5961 and repealing the existing section; also repealing K.S.A. 2002 Supp. 75-5962."; and the substitute bill be passed.

(H. Sub. for SB 268 was thereupon introduced and read by title.)

INTRODUCTION OF GUESTS

Rep. Kuether, the Shawnee County delegation and members of the House welcomed members of the Washburn University Ichabods and Lady Blues, their coaches, President Jerry Farley and Athletic Director Loren Ferre to the House.

The Ichabods finished the 2002-2003 season with a record of 26 wins and 6 losses and with 15 wins and 3 losses during conference competition. The team won the MIAA championship and reached the finals of the MIAA tournament while competing in its 8th NCAA national tournament. Team members include Jeremy Cunningham, Norton Edmonds, Matt Tinsley, Troy Douglas, Jerad Head, Alan Batiste, Steve Bonner, J.P. Meitner, Steve Kenney, Manny Clifton, Ryan Murphy, Ryan Tomlins, John Crider and Gary Woodland. They were coached by Bob Chipman and Kerry Dickerson. Rep. Kuether presented Coach Chipman with certificates and he addressed a few remarks to the members of the House.

The Lady Blues finished the 2002-2003 season with a record of 30 wins and 4 losses. They won the MIAA conference championship with a 15 and 3 conference record and they won the MIAA tournament for the third time in school history. They also won the South Central Regional title. Team members include Kristy Chapman, Gosia Czarnecka, Karen Dedonder, Alison Garrett, Carissa Goeglein, Ineke Ingram, Bethany McGraw, Crystal Walker, Lora Westling, Jill Heiman, April Roadhouse, Rebekah Mueller, Dani McHenry, Erica Redman and Maggie Diehl. They were coached by Ron McHenry, Dustin Odum, Lisa Curliss and Jodi Rausch. Rep. Kuether presented Coach McHenry with certificates and he addressed a few remarks to the members of the House.

CHANGE OF CONFEREES

Speaker pro tem Ballou announced the appointment of Reps. Holmes, Krehbiel and Kuether as members of the conference committee on **SB 109** to replace Reps. Vickrey, Ostneyer and Toelkes.

On motion of Rep. Aurand, the House recessed until 5:00 p.m.

LATE AFTERNOON SESSION

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

MESSAGE FROM THE SENATE

Announcing the Senate herewith transmits the veto message from the Governor, together with the enrolled copy of **SB 134**, An act concerning land and water recreational areas; relating to limited liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-3202 and repealing the existing sections, which was received on April 14, 2003, and was read before the Senate on April 30, 2003.

Message to the Senate of the State of Kansas:

I enthusiastically support expanding tourism in Kansas, including tourism tied to agriculture. However, Senate Bill 134 would endanger tourists and others seeking recreation by removing any duty of care for those who offer their lands for "agritourism" or "ecotourism," even if it is for profit. This bill could actually make agritourism less attractive as a result. Therefore, I veto Senate Bill 134.

Under Senate Bill 134, an irresponsible individual could charge families to enter agricultural land, and then introduce them to dangerous conditions and equipment without having to observe even the slightest duty of care for these families' safety. Even if that individual knew of an exceedingly dangerous condition on the land or that a piece of farm equipment were damaged and unsafe, this individual would have no responsibility whatsoever to warn his patrons or take any steps to protect them from harm. These patrons would only be protected against intentionally and maliciously caused injuries. If this bill became law, I fear we would regret it once the first child was injured while riding on unsafe farm equipment or playing in a dangerous area.

Some level of immunity may be appropriate for agritourism. But relieving the tourism industry from any duty of care simply makes no sense. I believe we can find a better balance

between promoting tourism and protecting families who seek an educational and enjoyable experience on agricultural land.

KATHLEEN SEBELIUS
Governor

Dated: April 14, 2003

A motion was made that, notwithstanding the Governor's objection to **SB 134**, the bill be passed. By a vote of 37 Yeas and 3 Nays, the motion having received the required two-thirds majority of the elected members of the Senate, voting in the affirmative to approve the bill, the bill did pass.

MESSAGE FROM THE SENATE

Announcing passage of **SB 281**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bill was thereupon introduced and read by title:

SB 281.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Speaker Mays announced the referral of **SB 281** to Committee on Economic Development.

INTRODUCTION OF ORIGINAL MOTIONS

In accordance with subsection (b) of House Rule 1503, Rep. Ballou moved that the order on General Orders of **HB 2053** be changed to the first measure to be considered on General Orders.

(The Chief Clerk of the House of Representatives is requested to read this motion and cause it to be printed in the Calendar of May 1, 2003, under the order of business "Consideration of Motions and House Resolutions Offered on a Previous Day" as provided by House Rule 1503 (b).)

INTRODUCTION OF ORIGINAL MOTIONS

Pursuant to House Rule 2311, Rep. Aurand moved that House Rule 3905 be suspended requiring printing and distribution of copies of **HB 2471**. The motion prevailed.

REPORT ON ENGROSSED BILLS

HB 2088, HB 2121, HB 2160; S. Sub. for HB 2208; S. Sub. for HB 2219 reported correctly engrossed April 8, 2003.

HB 2032, HB 2038, HB 2068, HB 2078, HB 2176, HB 2212 reported correctly re-engrossed April 8, 2003.

Also, **S. Sub. for HB 2308; HB 2369** reported correctly engrossed April 9, 2003.

HB 2234, HB 2247, HB 2288, HB 2297, HB 2332, HB 2374 reported correctly re-engrossed April 9, 2003.

REPORT ON ENROLLED BILLS

HB 2003, HB 2009, HB 2018, HB 2071, HB 2106, HB 2122 reported correctly enrolled, properly signed and presented to the governor on April 7, 2003.

Also, **HB 2130, HB 2131, HB 2150, HB 2155, HB 2179, HB 2207, HB 2212, HB 2233, HB 2241, HB 2254, HB 2310, HB 2367, HB 2456** reported correctly enrolled, properly signed and presented to the governor on April 8, 2003.

Also, **HB 2032, HB 2038, HB 2068, HB 2078, HB 2088, HB 2121, HB 2135, HB 2160, HB 2161, HB 2176; S. Sub. for HB 2208; S. Sub. for Sub. HB 2219; HB 2234, HB 2247, HB 2288, HB 2297; S. Sub. for HB 2308; HB 2332, HB 2369, HB 2374, HB 2426** reported correctly enrolled, properly signed and presented to the governor on April 11, 2003.

REPORT ON ENROLLED RESOLUTIONS

HR 6011 reported correctly enrolled and properly signed on April 7, 2003.
Also, **HR 6023** reported correctly enrolled and properly signed on April 8, 2003.

READING AND CORRECTION OF THE JOURNAL

In the Journal, on page 700, the conferees on **HB 2332** should read as follows:

KARIN BROWNLEE
NICK JORDAN
JIM BARONE

Conferees on part of Senate

DONALD L. DAHL
TODD NOVASCONE
L. CANDY RUFF

Conferees on part of House

On motion of Rep. Aurand, the House adjourned until 9:00 a.m., Thursday, May 1, 2003.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

