

Journal of the House

FOURTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, January 30, 2004, 10:15 a.m.

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

The roll was called with 113 members present.

Reps. Decker, Goering, Goico and Shultz were excused on legislative business.

Reps. Faust-Goudeau, Mason, Judy Morrison, Novascone, O'Neal, Powers, Sawyer and D. Williams were excused on excused absence by the Speaker.

Prayer by Representative Bethell:

Our Heavenly Father, it is so good to be able to come before you and thank you for the many blessings you shower upon us. We, even the least of us, in this country are truly blessed. You provide us with all of the necessities, and in most cases the luxuries of life.

Today we come together to focus on the issues of governance of the great state of Kansas. It is our realization that we cannot, of our own strength, accomplish the task before us so we ask that you be a part of our deliberations. Guide our activities so that we act as you desire to those with whom we interact. Give us your love, grace and concern for others.

Be with us today and in the days to come, we ask that all we do bring glory and honor to you. Amen.

The Pledge of Allegiance was led by Rep. Edmonds.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

HB 2657, An act concerning mortuary arts; relating to removal of dead bodies; educational requirements; examination and licensure; subpoenas; amending K.S.A. 65-1701a, 65-1751 and 74-1704 and repealing the existing sections, by Committee on Health and Human Services.

HB 2658, An act concerning adult care homes; relating to informal dispute resolution; providing for an independent review panel, by Committee on Health and Human Services.

HB 2659, An act concerning campaign finance; relating to reports of expenditures by lobbyists; amending K.S.A. 46-269 and repealing the existing section, by Committee on Ethics and Elections.

HB 2660, An act relating to school buses; requiring seat belts, by Committee on Transportation.

HB 2661, An act relating to motor carriers; concerning the regulation thereof; amending K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,109 and 66-1,129 and repealing the existing sections, by Committee on Transportation.

HB 2662, An act concerning taxation; relating to city and county compensating use tax upon tangible personal property; exemption for certain construction contracts; amending K.S.A. 2003 Supp. 12-198 and repealing the existing section, by Committee on Taxation.

HB 2663, An act concerning taxation on marijuana and controlled substances; relating to tax assessments; appeals, procedure; amending K.S.A. 79-5205 and repealing the existing section, by Committee on Taxation.

HOUSE CONCURRENT RESOLUTION No. 5032—

By Representatives Tafanelli, Wilk, Ballou, Beggs, Boyer, Burgess, Dahl, DeCastro, Faber, Goering, Goico, Gordon, Hayzlett, Howell, Huebert, Huff, Humerickhouse, Hutchins, Landwehr, Long-Mast, Mays, McCreary, McLeland, Merrick, Newton, Novascone, Osborne, Ostmeyer, Patterson, Powell, Schwab, Siegfried, Vickrey and D. Williams

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas.

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, 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. Effective January 1, 2005, the legislature shall provide by law to prohibit valuation increases on single-family residential real property with a valuation of less than \$250,000 which is owned by and the principal place of residence of Kansas residents who are 65 years of age or older as of January 1 of the tax year. The legislature may provide by law for subsequent adjustments in the age and the valuation requirements and enact such other legislation as is necessary to administer this provision. 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..... 11½%
- (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 11½%
- (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%
- (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. This amendment would require the legislature to prohibit valuation increases of single-family residential real property with a valuation of less than \$250,000 which is owned by and the principal place of residence of Kansas residents who are 65 years of age or older. The legislature may provide for subsequent adjustments in the age and valuation requirements and other legislation to administer this provision.

"A vote for this proposition would require the legislature to prohibit valuation increases of single-family residential real property with a valuation of less than \$250,000 which is owned by and the principal place of residence of Kansas residents who are 65 years of age or older and allow the legislature to make subsequent adjustments in the age and valuation requirements and enact other legislation as necessary to administer this provision.

"A vote against this proposition would maintain the current system of property taxation which provides no such prohibition."

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.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were referred to committees as indicated:

Corrections and Juvenile Justice: **HB 2649.**

Economic Development: **HB 2647**.
 Ethics and Elections: **HB 2640, HB 2641, HB 2642, HB 2643, HB 2644**.
 Federal and State Affairs: **HB 2656**.
 Judiciary: **HB 2655**.
 Local Government: **HB 2654**.
 Taxation: **HB 2648, HB 2650, HB 2651; HCR 5031**.
 Tourism and Parks: **HB 2653**.
 Transportation: **HB 2645, HB 2646**.
 Utilities: **HB 2652**.

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2594** from Committee on Agriculture and referral to Committee on Judiciary.

MESSAGE FROM THE SENATE

Announcing passage of **SB 297, SB 312**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 297, SB 312.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. 6014—

By Representatives Mays, Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, 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, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, 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 Duane S. "Pete" McGill.

WHEREAS, Duane S. "Pete" McGill, former Speaker of the Kansas House of Representatives, passed away Sunday, December 21, 2003, at the Menorah Medical Center in Overland Park. He was 81 years of age; and

WHEREAS, Mr. McGill served in the Kansas House of Representatives from 1961 to 1976, except for 1965-1966, and was the Speaker of the House of Representatives from 1973-1976; and

WHEREAS, Mr. McGill was born in Grandview, Iowa, and attended Coe College in Cedar Rapids, Iowa. In 1940 he enlisted in the United States Army, and after serving in the Pacific theater of operations was honorably discharged in 1945. Subsequently, he completed a baccalaureate degree at Southwestern College in Winfield and attended a graduate program at the University of Kansas; and

WHEREAS, Mr. McGill owned and operated several retail businesses in Winfield prior to commencing his political career. From 1978 to 1980 he was Chairman of the Kansas Turnpike Authority and later founded his own lobbying firm, Pete McGill and Associates, which became the largest independent lobbying organization in the Midwest. He served as

a delegate to the Republican National Convention five times and was the state chairman for the presidential campaigns of Ronald Reagan and George Bush; and

WHEREAS, Mr. McGill is survived by a son, Scott McGill; a daughter, Pam Shernuk; and three grandchildren, Brianna McGill, Andrew Shernuk and Kyle Shernuk: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we extend our deepest sympathy to the family and friends of Duane S. "Pete" McGill and express our appreciation of the selfless service he gave to the State of Kansas; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to his son, Scott McGill, and to his daughter, Pam Shernuk.

HOUSE RESOLUTION No. 6015—

By Representatives Yonally, Horst and Kassebaum

A RESOLUTION congratulating and commending Marlin Fitzwater.

WHEREAS, Marlin Fitzwater, a native of Abilene, has been chosen to receive the 2004 William Allen White national citation at the University of Kansas on February 13. He was chosen for this honor by the William Allen White Foundation's board of trustees; and

WHEREAS, From 1983 to 1992 Mr. Fitzwater served as press secretary to Presidents Reagan and Bush, the only person to be appointed by two presidents. Through cold war summits, two depressions and eight military conflicts he was the spokesperson of the administration giving over 850 press briefings. He won praise from both the public and the news media for his honesty and good humor. It was his voice which reassured the world in times of turmoil and change; and

WHEREAS, Subsequent to his press secretary service he has been an author and lecturer, and provided political analysis and television commentary during the 1996 election campaign; and

WHEREAS, Mr. Fitzwater graduated from Abilene High School and Kansas State University. He served in the United States Air Force and was employed by the Department of Transportation, Environmental Protection Agency and the Department of the Treasury prior to becoming press secretary: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend Marlin Fitzwater upon his selection to receive the 2004 William Allen White national citation; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution for presentation to Mr. Fitzwater.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. B. Sharp, **HR 6009**, A resolution in memory of Bill Wisdom, was adopted.

Rep. B. Sharp introduced the family of former Rep. Bill Wisdom: his wife, Joann; daughter, Joni Riley; son, Lt. Col. Billie J. Wisdom; and granddaughters, Joyce and Anne Wisdom. Lt. Col. Wisdom addressed a few remarks to the members of the House.

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 2664, An act concerning taxation; relating to collection of delinquent taxes; tax liens; amending K.S.A. 2003 Supp. 79-3235 and 79-3617 and repealing the existing sections, by Committee on Taxation.

HB 2665, An act concerning electric transmission lines; amending K.S.A. 2003 Supp. 74-8946 and repealing the existing section, by Committee on Utilities.

HB 2666, An act concerning the transportation of state employees; relating to the vanpool program; amending K.S.A. 75-46a02, 75-46a03 and 75-46a04 and repealing the existing

sections; also repealing K.S.A. 75-46a09, by Representatives Davis, Sloan, Ballard, Burgess, Carlin, Decker, Hill, Humerickhouse, Hutchins, Reitz, Siegfried, Tafanelli and Yonally.

HB 2667, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; vesting; amending K.S.A. 74-4917 and repealing the existing section, by Representative Davis.

HB 2668, An act concerning deer; relating to the taking thereof, by Representatives Aurand and Schwartz.

HB 2669, An act concerning the division of accounts and reports; relating to the write off of accounts receivable; setoff collection assistance fee; amending K.S.A. 44-716a and K.S.A. 2003 Supp. 60-2310 and 75-6210 and repealing the existing sections; also repealing K.S.A. 75-3728a, 75-3728c and 75-3728d and K.S.A. 2003 Supp. 75-3728b, by Committee on Appropriations.

HB 2670, An act concerning the division of accounts and reports; relating to reporting; amending K.S.A. 75-3054 and 75-3073 and K.S.A. 2003 Supp. 75-3735 and repealing the existing sections; also repealing K.S.A. 79-2917, by Committee on Appropriations.

HB 2671, An act concerning wage payment; relating to electronic deposit thereof; amending K.S.A. 44-314 and 75-5540 and repealing the existing sections, by Committee on Appropriations.

HB 2672, An act concerning the secretary of administration; relating to contracts for collection of charge credit card tickets accepted by state agencies; amending K.S.A. 75-37,100 and repealing the existing section, by Committee on Appropriations.

HB 2673, An act concerning claims; relating to prior fiscal year claims for services or purchases by state agencies; amending K.S.A. 46-923 and repealing the existing section, by Committee on Appropriations.

HB 2674, An act concerning watershed districts; establishing a program to provide loans and grants for payment of certain costs of rehabilitation of certain structures; authorizing issuance of bonds to fund such program, by Committee on Environment.

REPORTS OF STANDING COMMITTEES

Committee on **Insurance** recommends **HCR 5027** be adopted.

Committee on **Insurance** recommends **HB 2549** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

Request No. 20, by Representative Schwartz, congratulating John and Ida Sherrill on their 70th wedding anniversary and Kelly and Irma Luphers on their 65th wedding anniversary;

Request No. 21, by Representative Gordon, congratulating Ryan Sidesinger on achieving the rank of Eagle Scout;

Request No. 22, by Representative Vickrey, congratulating Nathan Haeefele on achieving the rank of Eagle Scout;

Request No. 23, by Representative Dreher, congratulating Major Harry Lee, Jr. on his induction into the Kansas National Guard Hall of Fame;

Request No. 24, by Representative Dreher, congratulating Neil and Mary Jane Holloway on their 50th wedding anniversary;

Request No. 25, by Representative Powers, congratulating Scott Bruce Carlson on achieving the rank of Eagle Scout;

Request No. 26, by Representative Henry, commending Abby Julo for her unique talents;

Request No. 27, by Representative Powell, congratulating Alma Gross on her 98th birthday;

Request No. 28, by Representative Grant, congratulating Michael Johnson and Shane Willey on being named 2004 Class 4A State Two-Person Debate Champs;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Aurand, the committee report was adopted.

SPECIAL PRESENTATION

It being the hour in accordance with **HCR 5029** to meet in joint session with the Senate for the purpose of commemorating Kansas Day, commemorating the 150th year anniversary of Kansas becoming a territory of the United States, and hearing an address by "John Brown," Reps. Freeborn, Myers and Gilbert escorted President Kerr and member of the Senate to seats in the House.

Speaker Mays introduced John Brown with the following remarks:

One hundred forty-five years after his ill-fated raid on Harper's Ferry to free the slaves, John Brown remains one of the most controversial figures in American history.

He had a varied background: tanner; surveyor; land speculator; cattle breeder; shepherd, wool dealer; farmer.

He was nomadic, living at various times in Pennsylvania, Indiana, Ohio, Massachusetts, and New York. Most Americans identify him, however, as a Kansan, although he lived in Kansas for only about 18 months. At Harper's Ferry, he identified himself as "Old Brown of Osawatimie."

Perhaps more than any other one person, John Brown represents the struggle between abolition and slavery that defined the Bleeding Kansas Territorial period and American politics of the 1850s. The odyssey of John Brown raises anew the question of the ethical responsibility of citizens when faced with questions of national morality. A better understanding of John Brown leads us to a better understanding of America in the years of turmoil preceding the great Civil War.

John Brown speaks to us this morning from his jail cell at Charleston, Virginia, on the night before his public hanging December 2, 1859.

Following the first person characterization of John Brown presented by David Matheny, Professor Emeritus of Communication at Emporia State University, Rep. Aurand presented him with a 1992 Legislative mug on which the John Brown mural is depicted commemorating its 50th anniversary. He was accompanied to the House by Marion Cott, Executive Director of the Kansas Humanities Council. Mr. Matheny now resides in Surfside, Texas.

REPORT ON ENROLLED RESOLUTIONS

HCR 5029; HR 6009 reported correctly enrolled and properly signed on January 30, 2004.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Monday, February 2, 2004.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

