

Journal of the House

TWENTY-EIGHTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, February 19, 2004, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 125 members present.

Prayer by guest chaplain, the Rev. James B. Rausch, pastor, First Presbyterian Church, Iola, and guest of Rep. Dreher:

Loving God, Abba, we are grateful for life, for fellowship, for love and for the meaningful work to which we are called. Alone, our abilities are not equal to the tasks before us. We need one another, and above all, we need You. Out of Your great goodness, grant us wisdom, patience, courage and love that stir us to selfless service.

We are both marvelously human and merely human: Created magnificently and endowed with amazing gifts, talents and abilities, yet utterly finite and imperfect. Aware of this great paradox, we come in humility seeking that power which is greater than ourselves in order that the tasks before us be met with the very best of our motivation, creativity, intellect, common sense, and moral values.

As the great state of Kansas has been blessed, move us, its daughters and sons, to help Kansas continue to be a blessing, faithfully tending its people and resources, conscientiously cultivating all of its gifts, and generously sharing its great abundance. Lead the contributions of this house to be useful, just, and constructive for humanity and all creation.

We thank you for the work of the clerks, secretaries, security and staff without whose devoted efforts, the work of this chamber could not be done. We thank you for our elected leadership, and ask that their service always be guided by Your hand.

I offer this prayer in the name of Jesus. Amen.

The Pledge of Allegiance was led by Rep. Dreher.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2898, An act concerning capital improvements for state agencies; making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, loans, disbursements and acts incidental to the foregoing, by Committee on Appropriations

HB 2899, An act making and concerning appropriations for the fiscal years ending June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2003 Supp. 2-223, 55-193, 75-2319, 76-775, 79-2959, 79-2964, 79-3425c, 79-3425i,

79- 34,147and 82a-953a and repealing the existing sections, by Committee on Appropriations.

HB 2900. An act making and concerning appropriations for the fiscal years ending June 30, 2004, and June 30, 2005, for certain state agencies; authorizing certain transfers and capital improvement projects, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing, by Committee on Appropriations.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **HB 2896.**

Federal and State Affairs: **HCR 5039.**

Taxation: **HB 2897.**

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2409** from Committee on Appropriations and referral to Committee on Taxation.

MESSAGE FROM THE SENATE

Announcing passage of **SB 289, SB 337, SB 342, SB 421.**

Announcing passage of **HB 2522.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 289, SB 337, SB 342, SB 421.

CONSENT CALENDAR

No objection was made to **HB 2709** appearing on the Consent Calendar for the first day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub. HB 2516. An act concerning utilities; providing certain incentives to increase electric transmission system and electric generating capacity; relating to powers and duties of the state corporation commission; relating to inclusion of certain expenses in rates; amending K.S.A. 66-128 and K.S.A. 2003 Supp. 66-1239 and 74-8946 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, 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, 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, Mays, 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, 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, Yonally.

Nays: Ballou, Feuerborn, Rehorn.

Present but not voting: None.

Absent or not voting: None.

The substitute bill passed.

Sub. HB 2558. An act relating to charter schools; amending K.S.A. 72-1906, 72-1907 and 72-1910 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: 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, Mays, 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, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The substitute bill passed.

HB 2601, An act concerning the Kansas open records act; pertaining to attorney fees and costs; amending K.S.A. 45-222 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: 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, Mays, 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, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: **HB 2601** is a testament to the ability of one lawyer, who so represented his client that it now requires an act of the Kansas legislature to change what he was able through his professionalism and skill to accomplish. Representative Jeff Goering, I tip my hat to you.

I vote yes on **HB 2601** because we need to level the playing field on access to public records in favor of the public, and deter unjustified refusals to provide access.—WARD LOYD

HB 2621, An act concerning inflicting harm, disability or death to certain dogs; amending K.S.A. 2003 Supp. 21-4318 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 14; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, 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, McCreary, McKinney, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Newton, Novascone, O'Malley, O'Neal, Osborne, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Ballou, Barbieri-Lightner, Carter, Dahl, Faber, Huebert, Mason, Mays, McLeland, Neufeld, Ostmeier, Powers, Tafanelli, Vickrey.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

HB 2652. An act concerning oil and gas; concerning unitization; amending K.S.A. 55-1302 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: 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, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeier, 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, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

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, was considered on final action.

On roll call, the vote was: Yeas 97; Nays 28; Present but not voting: 0; Absent or not voting: 0.

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

Nays: Brunk, Carter, Edmonds, Faber, Freeborn, Goering, Goico, Howell, Huebert, Huy, Jack, Kauffman, Landwehr, Long-Mast, McCreary, McLeland, Myers, Neighbor, Newton, O'Malley, Osborne, Ostmeier, Powers, Schwab, S. Sharp, Siegfried, Ward, D. Williams.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

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, was considered on final action.

On roll call, the vote was: Yeas 95; Nays 30; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Beggs, Bethell, Boyer, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, D. Johnson, E. Johnson, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Loganbill, M. Long, Loyd, Mays, McKinney, McLeland, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Neufeld, Novascone, O'Neal, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Barbieri-Lightner, Brunk, Carter, Edmonds, Faber, Freeborn, Goering, Goico, Howell, Huebert, Huy, Jack, Kauffman, Landwehr, Light, Long-Mast, Mason, McCreary, F. Miller, Myers, Neighbor, Newton, O'Malley, Osborne, Ostmeyer, Powers, S. Sharp, Siegfried, Ward, D. Williams.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2781** be passed.

Committee report recommending a substitute bill to **Sub. HB 2592** be adopted; and the substitute bill be passed.

Committee report to **HB 2617** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2635** be adopted; and the substitute bill be passed.

Committee report to **HB 2557** be adopted; also, on motion of Rep. Osborne to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **HB 2573** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2602** be passed.

Committee on **Corrections and Juvenile Justice** recommends **HR 6012** be amended on page 1, in line 40, after "ten" by inserting "and minority leader"; in line 41, after "Speaker" by inserting "and minority leader"; and the resolution be adopted as amended.

Committee on **Financial Institutions** recommends **HB 2613** be reported without recommendation.

Committee on **Tourism and Parks** recommends **HB 2604**, **HB 2731** be passed.

Committee on **Tourism and Parks** recommends **HB 2123** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2123," as follows:

"Substitute for HOUSE BILL No. 2123

By Committee on Tourism and Parks

"AN ACT concerning solid waste; relating to location of disposal areas; amending K.S.A. 65-3407 and repealing the existing section."; and the substitute bill be passed.

(**Sub. HB 2123** was thereupon introduced and read by title.)

Committee on **Transportation** recommends **HB 2707** be passed.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6026—

By Committee on Utilities

A RESOLUTION requesting the State Corporation Commission to take certain actions and make certain determinations regarding deployment of high speed Internet service in the state of Kansas.

Be it resolved by the House of Representatives of the State of Kansas: That the State Corporation Commission (“KCC”): (a) Is requested to require each incumbent local exchange carrier (“ILEC”) and any subsidiaries to provide the KCC with accurate maps and such other information required by the KCC to determine those areas of the state where ILEC’s and their subsidiaries provide, or will provide by January 1, 2006, Internet service with both upstream transmission, from customer to provider, and downstream transmission, from provider to customer, of at least 512 kilobits per second (“high speed Internet service”); (b) is requested to require that such information include the technology or technologies (i.e., DSL, cable, wireless) used to provide high speed Internet service; and (c) may maintain the confidentiality of such maps and information at the request of the ILEC or subsidiary, except to the extent necessary for the KCC to respond to the requests made in this resolution; and

Be it further resolved: That the KCC is requested to determine by September 1, 2004, those areas of the state, other than those determined by the KCC under (a) above, where high speed Internet service is provided, or will be provided by January 1, 2006, by providers other than ILEC’s and their subsidiaries; and

Be it further resolved: That the KCC is requested to develop and issue, not later than October 10, 2004, a request for information to identify responsible high speed Internet service providers willing to provide access to such service for consumers in the areas of the state other than those areas where the KCC determines there will be service by January 1, 2006 and, not later than December 1, 2004: (a) Identify the least expensive technological option offered by a responsible provider for each unserved part of the state, as determined by the KCC; and (b) determine what, if any, subsidy from the Kansas Universal Service Fund (“KUSF”) would be necessary for deployment of high speed Internet service in such unserved areas; and

Be it further resolved: That the KCC is requested to submit to the Legislature, on or before January 10, 2005, a report which includes: (a) The estimated cost to the KUSF to support deployment of high speed Internet service in such unserved areas by January 1, 2007, not to include support of ongoing operation of such service; (b) a recommendation concerning the technology appropriate to provide high speed Internet service to each unserved area; (c) a recommendation of policy and funding requirements necessary to ensure that ubiquitous high speed Internet service is available and that competition exists ubiquitously; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to each member of the State Corporation Commission.

REPORT ON ENGROSSED BILLS

HB 2601, HB 2652 reported correctly engrossed February 18, 2004.

On motion of Rep. Aurand, the House adjourned until 10:30 a.m., Friday, February 20, 2004.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

