

Journal of the House

THIRTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 24, 2004, 11:00 a.m.

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

The roll was called with 123 members present.

Rep. Holmes was excused on legislative business.

Rep. D. Williams was excused on excused absence by the Speaker.

Prayer by Ms. Ruth Hanke, Neodesha, who sang *The Lord's Prayer*. She is the daughter and guest of Rep. F. Miller.

The Pledge of Allegiance was led by Rep. Gilbert.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2909, An act concerning property taxation; relating to correction of errors; amending K.S.A. 2003 Supp. 79-1701 and 79-1701a and repealing the existing sections, by Committee on Taxation.

HB 2910, An act concerning motor vehicle fuel taxation; relating to exempt transactions; amending K.S.A. 2003 Supp. 79-3408 and repealing the existing section, by Committee on Taxation.

HB 2911, An act concerning sales taxation; relating to exemptions; aircraft and aircraft repair; amending K.S.A. 2003 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Commerce and Labor: **HB 2908**.

Education: **HB 2906**.

Utilities: **HB 2907**.

INTRODUCTION OF GUESTS

Rep. Mays introduced Bob Johns, Bob Rice and Bob Schick who served as pages during the entire 56 day session of the House in 1933. Rep. Mays presented them each with a page button and with a certificate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 324, An act concerning the courts; relating to appellate jurisdiction; amending K.S.A. 60-2102 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 86; Nays 37; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carter, Compton, Cox, Craft, Dahl, DeCastro, Decker, Dreher, Edmonds, Faber, Flora, Freeborn, Gatewood, Goering, Goico, Gordon, Hayzlett, Hill, Holland, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Krehbiel, Landwehr, Light, Long-Mast, Loyd, Mason, Mays,

McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pottorff, Powell, Powers, Schwab, Schwartz, S. Sharp, Shriver, Shultz, Siegfried, Sloan, Storm, Swenson, Tafanelli, Thimesch, Toelkes, Vickrey, Wilk, J. Williams, Wilson, Yoder, Yonally.

Nays: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Gilbert, Grant, Henderson, Henry, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, M. Long, McKinney, J. Miller, Minor, Pauls, Phelps, Reardon, Rehorn, Reitz, Ruff, Sawyer, Scoggins-Waite, B. Sharp, Showalter, Svaty, Thull, Ward, Winn.

Present but not voting: None.

Absent or not voting: Holmes, D. Williams.

The bill passed.

EXPLANATION OF VOTES

MR. SPEAKER: I vote no on **SB 324**. It is the obligation and duty of the State Legislature to provide funding for public schools in our state. That duty should not be delayed or disregarded by legislators and passed off to the courts. The Legislature is equipped to deal with the policy of providing fair and sufficient funding so that Kansas children get the best education the state can provide. It is time, indeed far past time, for the Legislature to do its job.—H. JAN SCOGGINS-WAITE, NILE DILLMORE, BONNIE SHARP, MARTI CROW, PAUL DAVIS.

MR. SPEAKER: **SB 324** will allow the legislature to avoid the tough vote—the vote it is obligated to make. This bill will further neglect the state's education system and increase litigation costs while education remains underfunded. I vote no on **SB 324**. —GERALDINE FLAHERTY, TOM BURROUGHS.

MR. SPEAKER: I vote no on **SB 324**. This bill will only increase the cost of litigation for school finance. We should be spending money on education, not litigation. We are wasting time and resources if we choose to solve the school finance issue in the courtrooms, rather than coming up with a solution this legislative session. These resources should be used in the classroom, not the courtroom.—BRUCE LARKIN, BILL FEUERBORN, JUDITH LOGANBILL, BOB GRANT, ANNIE KUETHER, BILL REARDON, SYDNEY CARLIN, EBER PHELPS, JIM MILLER.

MR. SPEAKER: I vote "yes" on **SB 324**. School finance is far too important to leave to a lower court. The Legislature erred in not appealing Judge Bullock's opinion a decade ago and the result was a completely new formula that the same judge has again struck down. I respect decisions of our district courts. I respect far more the decision of the highest court in the state. Kansans deserve an issue this important be decided by seven independent minds, viewing school finance from several perspectives. Judge Bullock's preliminary order provides non of the finality we need for definitive action.—WARD LOYD, KATHE DECKER, DOUG MAYS, CLAY AURAND, JOHN BALLOU, MELVIN NEUFELD, MICHAEL R. O'NEAL, RAY MERRICK, SCOTT SCHWAB, JEFF GOERING, DOUG PATTERSON, WILLA DECASTRO

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2731**, **HB 2725**, **HB 2707**, **HB 2604**, **HB 2746**, **HB 2695** be passed.

Sub. HB 2123; **HB 2773** be passed over and retain a place on the calendar.

Committee report to **HB 2793** be adopted; and the bill be passed as amended.

Committee report to **HB 2745** be adopted; and the bill be passed as amended.

Committee report to **HB 2563** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2622** be passed.

Committee on **Agriculture** recommends **HB 2593** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2593," as follows:

"Substitute for HOUSE BILL No. 2593

By Committee on Agriculture

"AN ACT concerning food safety and agriculture; relating to animal identification program; powers and duties of livestock commissioner; amending K.S.A. 2003 Supp. 45-221 and repealing the existing section."; and the substitute bill be passed.

(**Sub. HB 2593** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 306** be passed.

Committee on **Commerce and Labor** recommends **HB 2435** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2435," as follows:

"Substitute for HOUSE BILL No. 2435

By Committee on Commerce and Labor

"AN ACT concerning the governor's office; renaming the advisory committee on Hispanic affairs as the Hispanic and Latino American affairs commission and placing such commission within the governor's office; providing for the advisory commission on African-American affairs to be within the governor's office; amending K.S.A. 74-6501, 74-6501a, 74-6502, 74-6503, 74-6504, 74-6505, 74-6506, 74-6507, 74-6508, 74-6509, 74-9901, 74-9904 and 74-9906 and repealing the existing sections."; and the substitute bill be passed.

(**Sub. HB 2435** was thereupon introduced and read by title.)

Committee on **Corrections and Juvenile Justice** recommends **HB 2759** be passed.

Committee on **Corrections and Juvenile Justice** recommends **HB 2693** be amended on page 2, in line 10, by striking "value of the financial gain" and inserting "aggregate amount of the value of the resources"; in line 13, by striking "value of the financial gain" and inserting "aggregate amount of the value of the resources"; in line 16, after "A" by inserting "person"; also in line 16, by striking "value of the financial gain" and inserting "aggregate amount of the value of the resources";

Also on page 2, after line 19, by inserting the following:

"(6) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is less than \$500 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of mistreatment of a dependent adult two or more times."; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2777** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2777," as follows:

"Substitute for HOUSE BILL No. 2777

By Committee on Corrections and Juvenile Justice

"AN ACT concerning controlled substances; relating to manufacturing; amending K.S.A. 65-4161 and 65-4163 and repealing the existing sections."; and the substitute bill be passed.

(**Sub. HB 2777** was thereupon introduced and read by title.)

Committee on **Corrections and Juvenile Justice** recommends **HB 2790** be amended on page 2, in line 2, after the comma where it appears the first time by inserting "the attorney general,";

On page 3, in line 6, after the comma by inserting "the attorney general, the"; in line 11, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2869** be amended on page 1, in line 14, by striking ", the" and inserting ":

(a) The";

Also in line 14, after "test" by inserting "approved by the director of the Kansas bureau of investigation"; in line 15, after "or" by inserting "for"; also in line 15, by striking the comma; by striking all in line 16; in line 17, by striking "reliable"; in line 19, after "or" by

inserting “are”; in line 20, after the period by inserting “The director of the Kansas bureau of investigation shall adopt by rules and regulations the approved field tests; and

(b) physical evidence with a completed evidence custody receipt showing that such evidence has been continuously held in the possession or custody of law enforcement officers, law enforcement agencies, forensic laboratories or the United States postal service since the evidence was seized, shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if all law enforcement officers, evidence custodians and forensic examiners involved in the chain of custody had testified in person.”; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **HB 2629** be passed.

Committee on **Federal and State Affairs** recommends **HB 2798** be amended on page 2, in line 21, before “felony”, by inserting “person”;

On page 3, in line 8, by striking “(e)” and inserting “(f)”; in line 21, after “thereto”, by inserting “, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas”;

On page 4, in line 34, by striking “(e)” and inserting “(f)”;

On page 6, in lines 32 and 33, by striking “a completed fingerprint card.”;

On page 7, in line 37, by striking “or”; in line 43, before the period, by inserting “; or (16) in any city hall”; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2820** be passed.

Committee on **Health and Human Services** recommends **HB 2306** be amended on page 2, in line 11, after the period by inserting “However, nothing in this section shall prohibit the use and admissibility in evidence of one or more excerpts from any such inspection report that directly refer and relate to the named plaintiff if the district court determines on the record, after a hearing outside the presence of the jury, that every such excerpt is otherwise admissible under the rules of evidence contained in chapter 60, article 4 of the Kansas Statutes Annotated, and amendments thereto.”; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2714, HB 2764, HB 2874** be passed.

Committee on **Taxation** recommends **HB 2682** be passed.

Committee on **Taxation** recommends **HB 2560** be amended on page 1, in line 15, by striking “, Wyandotte”;

On page 2, in line 8, by striking “may elect to” and inserting “shall”; and the bill be passed as amended.

Committee on **Tourism and Parks** recommends **HB 2653** be passed.

Committee on **Transportation** recommends **HB 2235** be amended on page 1, in line 28, before the period, by inserting “and shall be maintained free from foreign materials and in a condition to be clearly legible”;

On page 2, in line 22, after “except” by inserting “for publicly owned police motor vehicles or”; and the bill be passed as amended.

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 bill was thereupon introduced and read by title:

HB 2912, An act concerning state finance; relating to biennial budget estimates for certain state agencies; amending K.S.A. 2003 Supp. 75-3717 and repealing the existing section, by Committee on Appropriations.

READING AND CORRECTION OF THE JOURNAL

In the Journal, on page 1105, please delete the Reference of Bills and Concurrent Resolutions and insert the following:

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2901, HB 2902, HB 2905; SB 399.**

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Economic Development: **SB 393**.
Environment: **SB 463**.
Financial Institutions: **SB 379**.
Judiciary: **SB 141**.
Taxation: **HB 2903, HB 2904**.
Tourism and Parks: **SB 363, SB 364**.
Transportation: **SB 329**.

On motion of Rep. Aurand, the House adjourned until 10:00 a.m., Wednesday, February 25, 2004.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

