

Journal of the House

SIXTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 1, 2005, 10:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 124 members present.

Prayer by guest chaplain, the Rev. Roger L. Freed, Olathe Wesleyan Church, Olathe, and guest of Rep. Olson:

On January 28, 1787, Benjamin Franklin, then 81 years old, rose to address the U.S. Constitutional Convention. He said in part...*We have been assured in the sacred writings, that 'Except the Lord build the house, they labor in vain that build it.' I firmly believe this; and I also believe that without His concurring aid, we shall succeed, in this political building, no better than the builders of Babel...I therefore beg leave to move that, henceforth, prayers imploring the assistance of Heaven, and its blessings on our deliberations be held in this assemble every morning before we proceed to business...*

Our Gracious Father, We praise you for this great state of Kansas that we are blessed to call our home. Thank you for entrusting us with the stewardship of this great land. We pray for your blessing upon all efforts to live rightly within this land and your mercy for our failures.

Thank you for this House and our elected representatives who serve here. Remind us that we are not only the servants of the people of Kansas but the servants of our creator. I pray that this body would have the courage to stand for the right. I pray that you would help all of us to be mindful of our responsibility to the weakest among us, the unborn and the infirmed. For you have said in your word "whatever you did for one of the least of these brothers of mine, you did for me."

Lord would you keep us humble so that we understand that none of us wield any power except that which you have permitted within your sovereign will. Make us discerners of your perfect will and give us courage to do what is right. I know that when we truly seek you, you will show us what to do and teach us how to do it. We wait before you. Please, oh God, lead the people of Kansas and these their elected representatives onward, forward and upward. Amen

The Pledge of Allegiance was led by Rep. Brown.

OATH OF OFFICE

Chief Justice Kay McFarland formally administered the oath of office to Rep. Melody Miller, as follows:

State of Kansas, County of Shawnee, ss:

I do solemnly swear that I will support the constitution of the United States and the constitution of the State of Kansas, and faithfully discharge the duties of the office of Representative of the State of Kansas, so help me God.

Speaker Mays welcomed Rep. Miller to the House as she officially begins her duties as Representative. Rep. Miller, who was accompanied to the House by her father, former Senator Billy McCray, 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 2233, An act concerning civil procedure; relating to immunity from liability for claims relating to weight gain or obesity, by Committee on Federal and State Affairs.

HB 2234, An act relating to state educational institutions; concerning tuition; amending K.S.A. 2004 Supp. 76-729 and repealing the existing section, by Committee on Higher Education.

HB 2235, An act concerning income taxation; relating to credits; disclosures; amending K.S.A. 2004 Supp. 79-3234 and repealing the existing section, by Committee on Taxation.

HB 2236, An act concerning sales taxation; relating to exemptions; Marillac Center, Inc.; amending K.S.A. 2004 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2237, An act concerning taxation; relating to secretary of revenue; tax report to legislature, by Committee on Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2226**, **HB 2227**, **HB 2228**.

Corrections and Juvenile Justice: **HB 2231**.

Economic Development: **HB 2232**.

Governmental Organization and Elections: **HB 2229**, **HB 2230**.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. B. Sharp, **HR 6009**, A resolution in memory of Harley D. Huggins, was adopted.

INTRODUCTION OF GUESTS

Rep. B. Sharp introduced family members of former Representative Harley D. Huggins: his wife, Virginia Huggins; daughters, Patricia Huggins Pettey and Teri Huggins Garrison. Patricia Pettey, a former Representative, addressed a few remarks to the members of the House.

CONSENT CALENDAR

No objection was made to **HB 2040** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2040, An act concerning sales taxation; relating to exemptions; repair of hearing aids; amending K.S.A. 2004 Supp. 79-3606 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: 0.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Wimm, Yoder, Yonally.

Nays: None.

Present but not voting: None.
 Absent or not voting: None.
 The bill passed.

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Dahl in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that roll call was demanded on motion of Rep. Craft to amend **SCR 1601** on page 1, in line 22, by striking "(a)"; in line 25, after the period, by inserting end quotation marks; by striking all in lines 26 and 27; in line 38, by striking "The proposed"; by striking all in lines 39 through 41;

On roll call, the vote was: Yeas 41; Nays 83; Present but not voting: 0; Absent or not voting: 0.

Yeas: Ballard, Carlin, Colloton, Cox, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Flaherty, Flora, Garcia, Gatewood, Hawk, Hill, Huff, Huntington, Jack, Kirk, Kuether, Lane, Loganbill, Loyd, Mah, Menghini, M. Miller, O'Malley, Owens, Peterson, Pottorff, Sawyer, B. Sharp, S. Sharp, Showalter, Sloan, Storm, Svaty, Swenson, Winn, Yoder, Yonally.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Flower, Freeborn, George, Goico, Gordon, Grange, Grant, Hayzlett, Henderson, Henry, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Larkin, Light, Long, Mast, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Otto, Pauls, Peck, Phelps, Pilcher-Cook, Powell, Powers, Ruff, Ruiz, Schwab, Schwartz, Shultz, Siegfried, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams.

Present but not voting: None.
 Absent or not voting: None.

The motion of Rep. Craft did not prevail, and **SCR 1601** be adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Governmental Organization and Elections** recommends **HB 2083** be amended on page 2, in line 23, by striking "one public hearing" and inserting "two public hearings"; in line 24, by striking "hearing or"; in line 25, by striking "once" and inserting "twice";

On page 6, in line 22, by striking all following "city"; in line 23, by striking preceding "the" and inserting "which is the subject of a study considering"; preceding line 31, by inserting new material to read as follows:

"Sec. 10. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.";

And by renumbering the remaining section accordingly; 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 bills were thereupon introduced and read by title:

HB 2238, An act concerning taxation; relating to duties of secretary of revenue; tax incidence impact analysis, by Committee on Taxation.

HB 2239, An act concerning agriculture; relating to sale of transgenic wheat seed; requirements and penalties for certain unlawful acts, by Committee on Agriculture.

HB 2240, An act concerning certain public utilities; relating to energy efficiency and conservation programs for certain customers; providing for recovery of certain amounts therefor, by Committee on Utilities.

HB 2241, An act concerning adult care homes; relating to risk assessment plans and inspection reports; amending K.S.A. 39-935 and repealing the existing section, by Committee on Insurance.

HB 2242, An act repealing K.S.A. 74-7405a; relating to the confidentiality of certain records, by Committee on Governmental Organization and Elections.

HB 2243, An act concerning certain joint water districts; relating to transfers of assets, liabilities and territory; amending K.S.A. 80-1616 and repealing the existing section, by Committee on Governmental Organization and Elections.

HB 2244, An act concerning sales taxation; relating to exemptions; KSDS, Inc.; amending K.S.A. 2004 Supp. 79-3606 and repealing the existing section, by Representative Schwartz.

HB 2245, An act concerning fireworks; enacting the Kansas fireworks act, by Committee on Appropriations.

HB 2246, An act concerning property taxation; relating to classification of property; amending K.S.A. 79-1439a and repealing the existing section, by Committee on Taxation.

HB 2247, An act concerning school records of certain pupils; relating to the transfer thereof; imposing duties upon the secretary of the department of social and rehabilitation services, by Representative Decker.

HB 2248, An act concerning private construction contracts; enacting the private construction prompt payment act, by Committee on Commerce and Labor.

COMMITTEE ASSIGNMENTS

Rep. M. Miller is re-appointed to Committee on Governmental Organization and Elections to replace Rep. Williams; also, Rep. M. Miller is re-appointed to Committee on Federal and State Affairs to replace Rep. Larkin.

REPORT ON ENROLLED RESOLUTIONS

HR 6009 reported correctly enrolled and properly signed on February 1, 2005.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Wednesday, February 2, 2005.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

