

Journal of the House

TWENTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, February 16, 2005, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Reps. Newton and Showalter were excused on verified illness.

Prayer by Chaplain Chamberlain:

What a gift the sunshine is, O God! Our lives are brightened by it. Our bodies are warmed by it. Our spirits are renewed by it. It warms the earth and all that grows in the earth. It nourishes the fields that produce the things that sustain us. Thank you Lord for this bright, blue day!

When we sing of spacious skies and amber waves of grain, of purple mountains majesty and of fruited plains, we are lifting our voice to you Lord the author of our liberty and the creator of our beautiful land. Hear us as we gather this day to further the dream of patriots who saw beyond their years to the dream of freedom in which we live. Empower us to act in ways that honor their vision and that make a positive difference in our world. Equip us with the vision, the wisdom, and the humility to make the dream a reality for all your children.

O God who shines upon us, who sends the True Light into the world, hear our prayer. Amen.

The Pledge of Allegiance was led by Rep. Lane.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2474, An act concerning schools and school districts; concerning the state board of education and the state department of education; relating to the powers and duties thereof; relating to school finance; establishing the legislative education council; providing for certain costs analysis studies; making and concerning appropriations for the fiscal year ending June 30, 2006 for the department of education; amending K.S.A. 72-979, 72-6405, 72-6410, 72-6412, 72-6413, 72-6414, 72-6415, 72-6433 and 72-8801 and K.S.A. 2004 Supp. 46-1208a, 72-978, 72-6407, 72-6434 and 79-5040 and repealing the existing sections; also repealing K.S.A. 46-1225, 72-6442 and 72-6433b, by Select Committee on School Finance.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Education: **HR 6018**.

Federal and State Affairs: **HB 2473**.

Governmental Organization and Elections: **HB 2469**, **HB 2470**.

Taxation: **HB 2471**, **HB 2472**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6019—

By Committee on Utilities

A RESOLUTION urging the State Corporation Commission to open a docket to require all electric public utilities serving Kansas to belong to the same regional transmission organization.

Be it resolved by the House of Representatives of the State of Kansas: That the State Corporation Commission is urged to open a docket to require all electric public utilities serving the State of Kansas to belong to the same regional transmission organization; and

Be it further resolved: That the State Corporation Commission is requested to communicate the Commission's decision to the Federal Energy Regulatory Commission, electric public utilities and other stakeholders not later than July 1, 2005.

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

CONSENT CALENDAR

No objection was made to **HB 2156**, **HB 2206** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2140**, **HB 2347** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2140, An act concerning the procedure for redevelopment districts to finance investigation and remediation of flood-plain conditions; qualifications; amending K.S.A. 2004 Supp. 12-1770a and 12-1771e and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

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, Gattewood, 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, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed.

HB 2347, An act authorizing the state board of regents to sell and convey a certain tract of real estate located in Ellis county, Kansas, for and on behalf of Fort Hays state university to the city of Hays, Kansas, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

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, Gattewood, 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, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed.

HB 2034. An act concerning judicial review and civil enforcement of agency actions; amending K.S.A. 77-603 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 92; Nays 31; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Bethell, Burgess, Burroughs, Carlin, Cox, Craft, Davis, Decker, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Huff, Humerickhouse, Huntington, D. Johnson, E. Johnson, Kelsey, Kiegerl, Kilpatrick, Kirk, Krehbiel, Kuether, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, McKinney, McLeland, Menghini, Merrick, M. Miller, Jim Morrison, Myers, Neufeld, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peterson, Phelps, Pottorff, Powell, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Ward, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Beamer, Brown, Brunk, Carlson, Carter, Colloton, Crow, Dahl, DeCastro, Dillmore, Faber, M. Holmes, Huebert, Hutchins, Huy, Jack, Kelley, Kinzer, Knox, Landwehr, Lane, Mast, McCreary, F. Miller, Judy Morrison, Peck, Pilcher-Cook, Powers, Vickrey, Watkins, Winn.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed.

HB 2072. An act relating to United States military personnel; concerning tuition and fee waivers; amending K.S.A. 73-1217 and K.S.A. 2004 Supp. 75-3721, 75-4364 and 76-729 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

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, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed, as amended.

HB 2122. An act concerning crimes and punishment; relating to the loss of value of the crime; amending K.S.A. 16-305, 19-3519, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118 and 44-5,125 and K.S.A. 2004 Supp. 21-3437, 21-

3707, 21-3763, 21-3846, 32-1005, 40-5013 and 47-1827 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 70; Nays 53; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Bethell, Burroughs, Carlin, Carter, Cox, Crow, Davis, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Garcia, George, Grange, Hawk, Henderson, Henry, Hill, Holland, Horst, Huff, Humerickhouse, Huntington, D. Johnson, Kelsey, Kilpatrick, Kirk, Krehbiel, Kuether, Larkin, Light, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Jim Morrison, Novascone, O'Malley, O'Neal, Owens, Pauls, Peterson, Phelps, Pottorff, Roth, Ruff, Ruiz, Sawyer, Schwartz, B. Sharp, S. Sharp, Shultz, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Beamer, Brown, Brunk, Burgess, Carlson, Colloton, Craft, Dahl, DeCastro, Edmonds, Faber, Flora, Flower, Freeborn, Gatewood, Goico, Gordon, Grant, Hayzlett, C. Holmes, M. Holmes, Huebert, Hutchins, Huy, Jack, E. Johnson, Kelley, Kiegerl, Kinzer, Knox, Landwehr, Lane, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Judy Morrison, Myers, Neufeld, Oharah, Olson, Otto, Peck, Pilcher-Cook, Powell, Powers, Schwab, Siegfried, Sloan, Watkins, Weber.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **HB 2122**. We make a mistake continuing to increase the qualifying level for a felony, but do nothing to reduce crime or its effect on our citizens. Citizens paying deductibles, worrying about increasing insurance rates or taking time off from work are not impressed by our definitions. This bill saves a few prison beds. Why are we not debating prisons; why are we not debating privatization, or mandating restitution and larger fines?

This bill reduces criminal responsibility, while harming victims.—ARLEN SIEGFREID

MR. SPEAKER: I voted no on **HB 2122** because of my respect for this institution. The animal section should have been taken out or at least passed through the Fish and Game Committee. I feel passage of this bill will encourage agencies in the future to bypass the Legislature's rules and do as they please.—BILL OTTO

HB 2153, An act concerning the secretary of aging; relating to the long-term care ombudsman; amending K.S.A. 2004 Supp. 75-7306 and 75-7310 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, 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, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Dillmore.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed, as amended.

HB 2215, An act relating to commercial driver's licenses; creating the hazmat fee fund; amending K.S.A. 2004 Supp. 8-267 and 8-2,151 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 5; Present but not voting: 0; Absent or not voting: 2.

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, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, 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, McLeland, Menghini, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Malley, O'Neal, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Gordon, Huntington, McKinney, Merrick, Oharah.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill passed, as amended.

HB 2217, An act relating to the division of vehicles; concerning records thereof; amending K.S.A. 2004 Supp. 74-2012 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 47; Nays 76; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Bethell, Burgess, Carter, Colloton, Cox, Craft, Davis, Decker, Flower, Freeborn, Garcia, George, Grange, Hawk, Hayzlett, Henry, Hill, C. Holmes, Huff, Humerickhouse, Jack, D. Johnson, E. Johnson, Kelsey, Kinzer, Knox, Krehbiel, Kuether, Light, Mah, Mays, Jim Morrison, Novascone, O'Malley, O'Neal, Otto, Owens, Powers, Roth, Schwab, S. Sharp, Sloan, Weber, Wilk, Yoder, Yonally.

Nays: Aurand, Beamer, Brown, Brunk, Burroughs, Carlin, Carlson, Crow, Dahl, DeCastro, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Goico, Gordon, Grant, Henderson, Holland, M. Holmes, Horst, Huebert, Huntington, Hutchins, Huy, Kelley, Kiegerl, Kilpatrick, Kirk, Landwehr, Lane, Larkin, Loganbill, Long, Loyd, Mast, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Judy Morrison, Myers, Neufeld, Oharah, Olson, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Ruff, Ruiz, Sawyer, Schwartz, B. Sharp, Shultz, Siegfried, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Williams, Winn.

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The bill did not pass.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2084** be passed over and retain a place on the calendar.

Committee report recommending a substitute bill to **Sub. HB 2113** be adopted; also, on motion of Rep. Huy to amend, the motion did not prevail. Also, on motion to recommend the bill favorably for passage, the motion did not prevail.

Committee report to **HB 2017** be adopted; and the bill be passed as amended.

Committee report to **HB 2058** be adopted; also, on motion of Rep. Vickrey be amended on page 1, in line 28, before the period, by inserting "or a nationally recognized trade association";

On page 2, in line 36, following “body” by inserting “or a nationally recognized trade association”; and the bill be passed as amended.

Committee report to **HB 2147** be adopted; and the bill be passed as amended.

Committee report to **HB 2265** be adopted; also, on motion of Rep. Carlin to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **HB 2183** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Environment** recommends **HB 2014** be passed.

Committee on **Governmental Organization and Elections** recommends **HB 2229** be passed.

Committee on **Health and Human Services** recommends **HB 2330** be amended on page 2, in line 28, by striking “radiography” and inserting “radiologic technology”; and the bill be passed as amended.

Committee on **Wildlife, Parks and Tourism** recommends **HB 2117** be amended on page 17, in line 7, after “75-4215” by inserting “and 74-7336”; in line 9, after “amount” by inserting “as prescribed by K.S.A. 74-7336, and amendments thereto.”; following line 17, by inserting a new section to read as follows:

“Sec. 16. K.S.A. 2004 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit 11.99% to the crime victims compensation fund, 2.45% to the crime victims assistance fund, 2.01% to the community alcoholism and intoxication programs fund, 2.01% to the department of corrections alcohol and drug abuse treatment fund and 0.17% to the boating fee fund. The remainder of the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.”;

And by renumbering the remaining sections accordingly;

Also on page 17, in line 26, by striking “and” where it appears for the second time and inserting a comma; also in line 26, after “32-1173” by inserting “and 74-7336”;

On page 1, in the title, in line 12, by striking “and” where it appears for the third time and inserting a comma; in line 13, after “1173” by inserting “and 74-7336”; 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 2475, An act concerning state officers and employees; relating to compensation for accumulated sick leave upon separation from state service; amending K.S.A. 75-5517 and repealing the existing section, by Committee on Taxation.

HB 2476, An act concerning transient guest taxation; relating to imposition of tax on certain activities of Kansas department of wildlife and parks; amending K.S.A. 12-1692 and 12-1696 and repealing the existing sections, by Committee on Taxation.

HB 2477, An act concerning unclaimed property; amending K.S.A. 2004 Supp. 58-3935 and 58-3943 and repealing the existing sections, by Committee on Appropriations.

HB 2478, An act concerning the court of appeals; amending K.S.A. 2004 Supp. 20-3002 and repealing the existing section, by Committee on Appropriations.

HB 2479, An act concerning state-tribal gaming compacts; amending K.S.A. 46-2302 and repealing the existing section, by Committee on Federal and State Affairs.

REPORT ON ENGROSSED BILLS

HB 2072, **HB 2122**, **HB 2153**, **HB 2215** reported correctly engrossed February 15, 2005.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, February 17, 2005.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

