

Journal of the House

FORTY-THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, March 11, 2005, 10:30 a.m.

The House met pursuant to adjournment with Speaker pro tem Merrick in the chair. The roll was called with 117 members present.
Reps. Cox and Showalter were excused on verified illness.
Rep. Mays was excused on legislative business.
Reps. O'Neal, Pottorff, Watkins, Weber and Yonally were excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

O God of burning bushes and mountaintop thunder, hear us this day as we offer our prayers to you. We long for your presence, O God, to guide us and direct us; to show us the right path for your name's sake; to know that the things that we care about are the things that please you and promote your kingdom on earth. We imagine that if only a bush would burn; if only there were a mountaintop nearby; if only you would speak plainly to us, all our problems would be solved and all our questions would be answered.

We forget that those to whom you spoke suffered all the doubts that we do, struggled as mightily as we do, and turned away and doubted you as often as we do. It is not burning bushes or mountaintop thunder that changes things O Lord. It is a heart transformed by your love, a life lived in your will, and words spoken to your purpose.

Forgive us when these things are not alive in us, when we turn from you and your word. Send your mighty blessing upon us that we might become true disciples, who have heard your word and responded through life. Amen.

The Pledge of Allegiance was led by Rep. Ballard.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2520**; **Sub. SB 211**.

Financial Institutions: **SB 223**.

Insurance: **Sub. SB 103**.

MESSAGES FROM THE SENATE

Announcing passage of **SB 74**, **SB 128**.

Announcing passage of **HB 2034**.

Announcing passage of **HB 2130**, as amended.

Also, announcing passage of **SB 62**.

Announcing passage of **HB 2042**, **HB 2086**, **HB 2178**, **HB 2297**.

Announcing passage of **HB 2123**, as amended; **HB 2156**, as amended; **HB 2215**, as amended.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 62, SB 74, SB 128.

CONSENT CALENDAR

Objection was made to **SB 47, SB 98** appearing on the Consent Calendar; the bills were placed on the calendar under the heading of General Orders.

No objection was made to **SB 115** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HR 6019, 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, was considered on final action.

On roll call, the vote was: Yeas 117; Nays 0; Present but not voting: 0; Absent or not voting: 8.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, 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, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Wilk, Williams, Winn, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Cox, Mays, O'Neal, Pottorff, Showalter, Watkins, Weber, Yonally.

The resolution was adopted, as amended.

SB 104, An act concerning banks; relating to examination of certain affiliated business entities; amending K.S.A. 9-1702 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 97; Nays 18; Present but not voting: 1; Absent or not voting: 9.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Holland, C. Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Krehbiel, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, McKinney, McLeland, Menghini, Merrick, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Oharah, Olson, Otto, Owens, Pauls, Peterson, Phelps, Powell, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Wilk, Winn, Yoder.

Nays: Brunk, Carlson, Carter, Faber, M. Holmes, Huebert, Kelley, Kiegerl, Kinzer, Knox, Landwehr, Mast, McCreary, F. Miller, Peck, Pilcher-Cook, Powers, Ward.

Present but not voting: Hill.

Absent or not voting: Cox, Mays, O'Neal, Pottorff, Showalter, Watkins, Weber, Williams, Yonally.

The bill passed.

SB 113, An act concerning agriculture; relating to soil amendment products; amending K.S.A. 2-2808 and K.S.A. 2004 Supp. 2-2805 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 2-2806, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 11; Present but not voting: 0; Absent or not voting: 8.

Yeas: Aurand, Ballard, Bethell, Brown, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Dahl, Davis, DeCastro, Decker, Edmonds, 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, Jack, D. Johnson, E. Johnson, Kelsey, Kiegerl, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Wilk, Williams, Winn, Yoder.

Nays: Beamer, Brunk, Carter, Dillmore, Faber, Huy, Kelley, Kinzer, McCreary, Pilcher-Cook, Ward.

Present but not voting: None.

Absent or not voting: Cox, Mays, O'Neal, Pottorff, Showalter, Watkins, Weber, Yonally.

The bill passed as amended.

SB 114, An act concerning the bank commissioner; relating to the issuance of civil penalties, was considered on final action.

On roll call, the vote was: Yeas 99; Nays 16; Present but not voting: 2; Absent or not voting: 8.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, 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, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Larkin, Light, Loganbill, Long, Mah, Mast, McCreary, McLeland, Menghini, Merrick, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Powell, Roth, Ruff, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Wilk, Williams, Winn, Yoder.

Nays: Carlson, Carter, Huy, Kelley, Kiegerl, Kinzer, Landwehr, Lane, McKinney, F. Miller, Peterson, Pilcher-Cook, Powers, Ruiz, Vickrey, Ward.

Present but not voting: Hill, Loyd.

Absent or not voting: Cox, Mays, O'Neal, Pottorff, Showalter, Watkins, Weber, Yonally.

The bill passed.

SB 219, An act concerning agriculture; creating the pest control compact, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 3; Present but not voting: 0; Absent or not voting: 8.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, 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, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Wilk, Williams, Winn, Yoder.

Nays: Huy, Landwehr, Pilcher-Cook.

Present but not voting: None.

Absent or not voting: Cox, Mays, O'Neal, Pottorff, Showalter, Watkins, Weber, Yonally.

The bill passed.

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

COMMITTEE OF THE WHOLE

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

Recommended that **SB 101**, **SB 57** be passed.

Committee report to **SB 43** be adopted; and the bill be passed as amended.

On motion of Rep. Ward to amend **SB 105**, the motion did not prevail and the bill be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce and Labor** recommends **SB 69** be amended on page 2, after line 20, by inserting the following:

“(d) This section shall be part of and supplemental to the self-service storage act.”; and the bill be passed as amended.

Committee on **Commerce and Labor** recommends **SB 215** be amended on page 1, in line 16, by striking “(1)”; in line 17, by striking all after “except” and inserting a colon; by striking all in line 18; in line 19, by striking “(A)” and inserting “(1)”; in line 20, by striking “(B)” and inserting “(2)”; in line 25, by striking “(C)” and inserting “(3)”; in line 27, by striking “(D)” and inserting “(4)”;

On page 4, in line 43, by striking all after “by” and inserting in lieu thereof “restricted mail as defined by K.S.A. 60-103 and amendments thereto”;

On page 5, in line 4, by striking “8” and inserting “11”; in line 7, by striking “30” and inserting “20”; in line 9, by striking “brought to enforce” and inserting “arising out of”; after line 11, by inserting:

“Sec. 18. (a) The following persons may make demand upon a broker for the entering of satisfaction or release of the lien, as provided for in sections 12 and 16, and amendments thereto:

(1) An owner or the owner’s heirs or assigns or anyone acting for such owner, heirs or assigns;

(2) an owner of real estate upon which a lien has been recorded by someone having no interest in the real estate; or

(3) a lender or designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such lien.

(b) Any broker or assignee of a broker who refuses or neglects to enter satisfaction or release of such lien within 20 days after demand has been made as provided in subsection (a) shall be liable in damages to the person for whom the demand was made in the sum of \$500, together with a reasonable attorney’s fee for preparing and prosecuting the action. The plaintiff in such action may recover any additional damages that the evidence in the case warrants. Civil actions may be brought under this section before any court of competent jurisdiction, and attachments may be had as in other cases.”;

And by renumbering the remaining section accordingly; and the bill be passed as amended.

Committee on **Governmental Organization and Elections** recommends **SB 78** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Governmental Organization and Elections** recommends **SB 152** be amended on page 2, after line 3, by inserting:

“(d) Notwithstanding any provision of article 25 of chapter 80 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, the board of a hospital district is hereby authorized to obtain financing for the construction of a hospital facility to be located in the hospital district, secured by a mortgage on any or all hospital property, provided such mortgage is insured pursuant to the United States department of housing and urban development’s mortgage insurance program, section 242 of the national housing act, 12 U.S.C. 1715z-7, section 242, as amended.”;

Also on page 2, in line 6, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 10, before "amending" by inserting: "providing a limited authority to mortgage property;"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **SB 183** be passed.

Committee on **Health and Human Services** recommends **SB 91** be amended on page 2, in line 14, before the period by inserting ", except that a not-for-profit organization providing dental services under K.S.A. 75-6102, and amendments thereto, shall be exempt from this act";

On page 3, in line 24, by striking "and"; in line 27, by striking the period and inserting "; (E) dentist who are providing dental services under K.S.A. 75-6102, and amendments thereto; and

(F) dental hygienists who are providing dental hygiene services under K.S.A. 75-6102, and amendments thereto."; and the bill be passed as amended.

REPORT OF STANDING COMMITTEE

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

Request No. 145, by Representative Holland, congratulating Ruth Sarna on being named an American College Health Association Fellow;

Request No. 146, by Representative Phelps, honoring Rita Haley on her retirement from the Kansas State Library;

Request No. 147, by Representative Hutchins, congratulating Mike Roberts on winning second place in the Class 4A Wrestling Championship;

Request No. 148, by Representative Beamer, congratulating Lewis Younkin on being state wrestling champion for 3 years;

Request No. 149, by Representative Beamer, congratulating Shawn Kuhlman on being state wrestling champion;

Request No. 150, by Representative Mays, commending Russell Mills on his retirement from Legislative Research;

Request No. 151, by Representative Schwartz, congratulating Dail and Minnie Nelson on their 60th wedding anniversary;

Request No. 152, by Representative Schwartz, congratulating LaVerne and Bonnie Stone on their 65th wedding anniversary;

Request No. 153, by Representative Henderson, congratulating Thelma Patrick on her 70th birthday;

Request No. 154, by Representative Gatewood, congratulating Lester Clarkson on his 86th birthday;

Request No. 155, by Representative Mast, congratulating Josh McIlvain on being named a 2005 National Merit Scholarship finalist;

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.

CHANGE OF REFERENCE

Speaker pro tem Merrick announced the withdrawal of **HB 2510** from Committee on Taxation and rereferral to Committee on Federal and State Affairs.

Also, the withdrawal of **HCR 5013** from Committee on Federal and State Affairs and referral to Committee on Health and Human Services.

REPORT ON ENGROSSED RESOLUTIONS

HR 6019 reported correctly engrossed March 10, 2005.

REPORT ON ENROLLED BILLS

HB 2059 reported correctly enrolled, properly signed and presented to the governor on March 11, 2005.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Monday, March 14, 2005.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

