

Journal of the House

TWENTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 7, 2006, 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. M. Holmes was excused on verified illness.
Rep. Craft was excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

God of past, present and future, Ruler of heaven and earth, Lord of all life, we raise our voices to praise and honor your name today. We thank you for a super weekend just completed, for games that provide opportunities for rest and joy. It's true, Lord, that we don't always like the score or agree with the calls. Sometimes our team is nowhere to be seen.

But we do enjoy keeping score anyway. We like it so much that we keep score even when it's not a game. We keep score with money. We keep score with votes. We keep score with power. We keep score with office space and parking places and clothes and party invitations. And if we need to, we're more than ready to lean on the refs for a bit of an edge. Lord, if there is a way to win we'll find it, because we do so love to come out on top!

Thank you, Lord, that you are not a God who keeps score, that your calls are righteous and just, that it is not your will that anyone "lose" but that each of us share in your eternal kingdom.

Bless us today Lord, keep us inbounds and let our only goal be fulfilling your will for us all. Amen.

The Pledge of Allegiance was led by Rep. Burroughs.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2833, An act concerning the Kansas veterinary practice act; amending K.S.A. 47-824 and 47-840 and K.S.A. 2005 Supp. 47-816 and 47-825 and repealing the existing sections, by Committee on Agriculture.

HB 2834, An act concerning the Kansas veterinary practice act; amending K.S.A. 47-834 and repealing the existing section, by Committee on Agriculture.

HB 2835, An act concerning the Kansas veterinary practice act; amending K.S.A. 47-830 and 47-839 and K.S.A. 2005 Supp. 47-842 and repealing the existing sections, by Committee on Agriculture.

HB 2836, An act concerning agriculture; relating to the Kansas egg law; requirements; definitions; unlawful acts; enforcement and penalties; registration; fees; amending K.S.A. 2-2502, 2-2503, 2-2505, 2-2507 and 2-2508 and K.S.A. 2005 Supp. 2-2501 and repealing the existing sections, by Committee on Agriculture.

HB 2837, An act concerning debt collectors; establishing requirements that debt collectors operating to collect debts in Kansas register with the secretary of state, post a surety bond and register a resident agent, by Committee on Commerce and Labor.

HB 2838, An act concerning campaign finance; prohibiting certain contributions, by Committee on Governmental Organization and Elections.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Commerce and Labor: **HB 2821**.

Financial Institutions: **HB 2824**.

Governmental Organization and Elections: **HB 2823**.

Health and Human Services: **HB 2825, HB 2827, HB 2829, HB 2830, HB 2831**.

Judiciary: **HB 2826, HB 2828, HB 2832**.

Transportation: **HB 2822**.

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2306** from Committee on Appropriations and referral to Committee on Federal and State Affairs.

CONSENT CALENDAR

No objection was made to **HB 2595, HB 2673** appearing on the Consent Calendar for the second day.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2574; SB 349; HB 2691** be passed.

Committee report to **HB 2599** be adopted; and the bill be passed as amended.

Committee report to **HB 2394** be adopted; and the bill be passed as amended.

Committee report to **HB 2593** be adopted; also, on motion of Rep. Kelsey to amend, Rep. Dillmore requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question then reverted back to the amendment of Rep. Kelsey, which was withdrawn.

Also, roll call was demanded on further motion of Rep. Kelsey to amend **HB 2593** on page 2, in line 28, after "dependents" by inserting "except that such health insurance shall not provide coverage for abortions";

On roll call, the vote was: Yeas 72; Nays 50; Present but not voting: 0; Absent or not voting: 3.

Yeas: Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Dahl, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, C. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, E. Johnson, Kelley, Kelsey, Kiegerl, Kinzer, Knox, Landwehr, Light, Long, Lukert, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Neal, Oharah, Olson, Otto, Pauls, Peck, Pilcher-Cook, Pottorff, Powell, Powers, Ruff, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Svaty, Swenson, Tafanelli, Vickrey, Watkins, Weber, Wilk, Williams.

Nays: Aurand, Ballard, Carlin, Colloton, Cox, Crow, Davis, Decker, Dillmore, Faust-Goudeau, Flaharty, Flora, Garcia, Gordon, Hawk, Henderson, Hill, Holland, Huff, Huntington, D. Johnson, Kilpatrick, Kirk, Krehbiel, Kuether, Lane, Loganbill, Loyd, Mah, Menghini, M. Miller, O'Malley, Owens, Peterson, Phelps, Proehl, Roth, Ruiz, Sawyer, B. Sharp, Sloan, Storm, Thull, Treaster, Trimmer, Ward, Winn, Wolf, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Craft, DeCastro, M. Holmes.

The motion of Rep. Kelsey prevailed; and **HB 2593** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2583** 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 **Federal and State Affairs** recommends **HB 2541** be passed.

Committee on **Taxation** recommends **HB 2525** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2525," as follows:

"Substitute for HOUSE BILL No. 2525

By Committee on Taxation

"AN ACT concerning property taxation; relating to exemptions; certain telecommunications and railroad machinery and equipment; concerning payments to counties; amending K.S.A. 2005 Supp. 79-213 and repealing the existing section."; and the substitute bill be passed.

(**Sub. HB 2525** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **HB 2619** be amended on page 1, in line 32, by striking "on or"; also in line 32, by striking "January"; in line 33, by striking "1, 2007" and inserting "June 30, 2006"; also in line 33, by striking "solely"; in line 36, by striking "on or"; also in line 36, by striking "January 1, 2007" and inserting "June 30, 2006"; in line 39, by striking "solely";

On page 2, after line 10, by inserting the following:

"(e) The secretary of revenue is hereby authorized to adopt rules and regulations to administer the provisions of this section.

New Sec. 2. (a) There is hereby established in the state treasury the business machinery and equipment tax reduction assistance fund which shall be administered by the state treasurer. All expenditures from the business machinery and equipment tax reduction assistance fund shall be for the payments to counties for distribution to taxing subdivisions levying ad valorem taxes within the county in accordance with this section.

(b) The secretary of revenue shall adopt a policy using the most current information that is available, and that is determined to be practicable by the secretary for this purpose and shall calculate the following:

(1) On January 31, 2008, the secretary shall calculate for each county an amount equal to the difference in total ad valorem tax receipts for ad valorem taxes imposed and collected by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for tax year 2005, and the total of such ad valorem tax receipts for ad valorem taxes imposed for tax year 2007. On or before February 15, 2008, subject to the provisions of subsection (c), the state treasurer shall pay to the county treasurer of each county an amount equal to 100% of such difference for distribution to the taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for apportionment as provided in subsection (d).

(2) On January 31, 2009, the secretary shall calculate for each county an amount equal to the difference in total ad valorem tax receipts for ad valorem taxes imposed and collected by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for tax year 2005, and the total of such ad valorem tax receipts for ad valorem taxes imposed for tax year 2008. On or before February 15, 2009, subject to the provisions of subsection (c), the state treasurer shall pay to the county treasurer of each county an amount equal to 100% of such difference for distribution to the taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for apportionment as provided in subsection (d).

(3) On January 31, 2010, the secretary shall calculate for each county an amount equal to the difference in total ad valorem taxes receipts for ad valorem tax imposed and collected by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for tax year 2005, and the total of such ad valorem tax receipts for tax year 2009. On or before February 15, 2010, subject to the provisions of subsection (c), the state treasurer shall pay to the county treasurer of each county an amount equal to 80% of such difference for distribution to the taxing subdivisions

within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for apportionment as provided in subsection (d).

(4) On January 31, 2011, the secretary shall calculate for each county an amount equal to the difference in total ad valorem taxes receipts for ad valorem tax imposed and collected by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for tax year 2005, and the total of such ad valorem tax receipts for tax year 2010. On or before February 15, 2011, subject to the provisions of subsection (c), the state treasurer shall pay to the county treasurer of each county an amount equal to 60% of such difference for distribution to the taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for apportionment as provided in subsection (d).

(5) On January 31, 2012, the secretary shall calculate for each county an amount equal to the difference in total ad valorem taxes receipts for ad valorem tax imposed and collected by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for tax year 2005, and the total of such ad valorem tax receipts for tax year 2011. On or before February 15, 2012, subject to the provisions of subsection (c), the state treasurer shall pay to the county treasurer of each county an amount equal to 40% of such difference for distribution to the taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for apportionment as provided in subsection (d).

(6) On January 31, 2013, the secretary shall calculate for each county an amount equal to the difference in total ad valorem taxes receipts for ad valorem tax imposed and collected by the county for all taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for tax year 2005, and the total of such ad valorem tax receipts for tax year 2012. On or before February 15, 2013, subject to the provisions of subsection (c), the state treasurer shall pay to the county treasurer of each county an amount equal to 20% of such difference for distribution to the taxing subdivisions within the county imposing ad valorem taxes on commercial and industrial machinery and equipment for apportionment as provided in subsection (d).

(7) There shall be no payments made pursuant to this section after the payments made by the state treasurer on or before February 1, 2013, and the provisions of this section shall expire at such time.

(c) If the amount calculated for the difference in subsections (b)(1) through (b)(5) is negative, the amount calculated for such county for such year shall be deemed to be zero and no amount shall be paid to the county treasurer of such county as otherwise provided in subsection (b). Nothing in this section shall be construed to require the county to make any payments to the state in such event that the amount calculated for the difference is negative for the county for such year.

(d) (1) On January 31 of each year specified in this section, the secretary of revenue shall certify to the director of accounts and reports the aggregate of all amounts determined for counties pursuant to subsection (b). Upon receipt of such certification, the director of accounts and reports shall transfer the amount certified from the state general fund to the business machinery and equipment tax reduction assistance fund.

(2) The state treasurer shall apportion and distribute the moneys credited to the business machinery and equipment tax reduction assistance fund to the county treasurers in accordance with subsection (b). Upon receipt of each such amount, each county treasurer shall apportion such amount among the ad valorem taxing subdivisions in the same proportion that the amount of the total mill levy of each individual taxing subdivision for the preceding tax year bears to the aggregate of such levies of all the taxing subdivisions among which the apportionment is to be made. The county treasurer shall pay such amounts to the taxing subdivisions at the same time or times as their regular operating tax rate mill levy is paid to them.

(e) Before January 31 of 2007 through 2013, the secretary of revenue shall make a detailed report of amounts calculated as required pursuant to subsection (b) for each individual county and in aggregate for all the counties for the current year along with any projections for future years, amounts distributed to the counties pursuant to this section, and all other relevant information related to the provisions of this section, and shall present such report

before such date to the house committee on taxation of the house of representatives and the senate committee on assessment and taxation of the senate for consideration by the legislature in making any appropriate adjustments to the provisions of this section.”;

And by renumbering section 2 as section 3;

Also on page 2, after line 24, by inserting the following:

“Sec. 4. K.S.A. 2005 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser’s recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property

the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; ~~and~~ (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto; *and (18) commercial and industrial machinery and equipment exempted from property or ad valorem taxation by section 1, and amendments thereto.*

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.;

And by renumbering sections 3 and 4 as sections 5 and 6;

Also on page 2, in line 25, by striking "is" and inserting "and 79-213 are";

On page 1, in the title, in line 11, after the semicolon, by inserting “certain payments to counties;”; also in line 11, after “79-201w”, by inserting “and 79-213”; in line 12, by striking “section” and inserting “sections”; 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 2839. An act concerning the residential landlord and tenant act; relating to eviction actions and disposition of possessions; amending K.S.A. 58-2565 and repealing the existing section, by Committee on Governmental Organization and Elections.

HB 2840. An act concerning cities and counties; relating to planning and zoning; amending K.S.A. 12-752 and repealing the existing section, by Committee on Governmental Organizations and Elections.

HB 2841. An act concerning employment; relating to the misclassification of employees; amending K.S.A. 2005 Supp. 79-3234 and repealing the existing section, by Committee on Commerce and Labor.

HB 2842. An act concerning utilities; concerning a wind energy stimulus package, by Representative Yonally.

HB 2843. An act relating to public buildings; concerning the construction thereof; enacting the green buildings act; amending K.S.A. 75-1259 and 75-3783 and K.S.A. 2005 Supp. 31-150 and repealing the existing sections, by Representative Yonally.

HB 2844. An act concerning electric generation; providing for net metering, by Representative Yonally.

HB 2845. An act concerning motor-vehicle fuel taxation; relating to rates; ethanol blends; amending K.S.A. 79-3401 and K.S.A. 2005 Supp. 79-34,141 and 79-34,142 and repealing the existing sections, by Committee on Environment.

HB 2846. An act concerning state parks; renaming state park no. 24; amending K.S.A. 2005 Supp. 32-837 and repealing the existing section, by Representatives Flora, Kirk, Kuether, Lane, Mah and Mays.

HB 2847. An act concerning eligibility requirements of applicants for and recipients of certain state assistance programs; amending K.S.A. 2005 Supp. 39-709 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2848. An act relating to health and health care; concerning nutrition and hydration of persons legally incapable of making health care decisions, by Committee on Federal and State Affairs.

HB 2849. An act; concerning wards and guardians; relating to the duties and powers of guardians; concerning nutrition and hydration; amending K.S.A. 59-3051 and 59-3075 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2850. An act concerning elections; pertaining to eligibility of certain voters; amending K.S.A. 2005 Supp. 25-2309 and 25-2908 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2851. An act concerning income taxation; relating to credits; education expenses, by Committee on Federal and State Affairs.

HB 2852. An act concerning the board of nursing; relating to licensure of mental health technicians; concerning fingerprinting and criminal history records checks, by Committee on Federal and State Affairs.

HB 2853. An act concerning the board of nursing; relating to licensure of professional and practical nurses; concerning fingerprinting and criminal history records checks, by Committee on Federal and State Affairs.

HB 2854. An act relating to conveyance of railroad right-of-way by a railroad company; amending K.S.A. 2005 Supp. 66-525 and repealing the existing section, by Committee on Transportation.

HB 2855. An act establishing a health care directives registry; providing for administration by the secretary of health and environment, by Committee on Health and Human Services.

FEBRUARY 7, 2006

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COMMITTEE ASSIGNMENT CHANGE

Speaker pro tem Merrick announced Rep. Mah is appointed to replace Rep. Kuether on Committee on Economic Development.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Wednesday, February 8, 2006.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

