

# Journal of the House

FORTIETH DAY

---

HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, March 7, 2006, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.  
The roll was called with 122 members present.  
Rep. Bethell was excused on verified illness.  
Reps. C. Holmes and Weber were excused on excused absence by the Speaker.

Prayer by Rep. Decker:

Father God thank you for allowing us to enter your presence today. Please bless the members of the House and their families. Give us wisdom today and help us seek knowledge of your will so we may walk in ways pleasing unto you.

Lord Jesus we pray these things through you. Amen.

The Pledge of Allegiance was led by Rep. George.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 3000.** An act relating to motor vehicles; providing for a timber permit, by Committee on Taxation.

**HB 3001.** An act concerning the open records act; relating to definitions; amending K.S.A. 2005 Supp. 45-217 and repealing the existing section, by Committee on Taxation.

**HB 3002.** An act concerning taxation; relating to homestead property tax refunds; claimants; amending K.S.A. 2005 Supp. 79-4502 and repealing the existing section, by Committee on Taxation.

**HB 3003.** An act concerning protection of certain personal information; restricting disclosure or use of certain information; prohibiting certain acts and providing penalties and remedies for violations; amending K.S.A. 20-160, 50-702, 60-4104 and 60-4105 and K.S.A. 2005 Supp. 21-4018 and 21-4603d and repealing the existing sections, by Committee on Federal and State Affairs.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2996.**

Commerce and Labor: **HB 2995.**

Economic Development: **HB 2999.**

Insurance: **HB 2998.**

Taxation: **HB 2997.**

## CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **SB 512** from Committee on Judiciary and referral to Committee on Insurance.

Also, the withdrawal of **HB 2971** from Committee on Health and Human Services and referral to Committee on Appropriations.

Also, the withdrawal of **HCR 5032** from Committee on Federal and State Affairs and referral to Select Committee on School Finance.

**MESSAGE FROM THE GOVERNOR**

**HB 2284** approved on March 6, 2006.

**MESSAGE FROM THE SENATE**

The Senate accedes to the request of the House for a conference on **HB 2611** and has appointed Senators Donovan, Wilson and Gilstrap as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2732** and has appointed Senators Donovan, V. Schmidt and Hensley as conferees on the part of the Senate.

**CONSENT CALENDAR**

No objection was made to **SB 392, SB 448** appearing on the Consent Calendar for the first day.

No objection was made to **SB 325** 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**

**SB 325.** An act concerning aquaculture; aquaculture advisory council; amending K.S.A. 2005 Supp. 47-1902 and repealing the existing section; also repealing K.S.A. 2005 Supp. 47-1903 and 47-1904, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

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

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, C. Holmes, Weber.

The bill passed.

**HB 2573.** An act concerning income taxation; relating to deductions; contributions to qualified tuition programs; amending K.S.A. 2005 Supp. 79-32,117 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 101; Nays 21; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Colloton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Freeborn, Garcia, George, Goico, Gordon, Grange, Hawk, Hayzlett, Hill, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McLeland, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peterson, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried,

Sloan, Storm, Svaty, Swenson, Tafanelli, Vickrey, Watkins, Wilk, Williams, Wolf, Yoder, Yonally.

Nays: Carlin, Crow, Feuerborn, Flaharty, Flora, Gatewood, Grant, Henderson, Henry, Holland, Kirk, Kuether, McKinney, Menghini, Peck, Phelps, Thull, Treaster, Trimmer, Ward, Winn.

Present but not voting: None.

Absent or not voting: Bethell, C. Holmes, Weber.

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 on motion of Rep. Holland to amend **HB 2615**, Rep. Hutchins requested the question be divided. Rep. Hutchins also requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane, and the question was divided.

Roll call was demanded on Part A of the motion of Rep. Holland to amend **HB 2615** on page 1, by striking all in line 14;

On roll call, the vote was: Yeas 63; Nays 58; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Burroughs, Carlin, Colloton, Cox, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Goico, Grant, Hawk, Henderson, Henry, Hill, Holland, Horst, Huff, Huntington, D. Johnson, Kirk, Kuether, Lane, Loganbill, Long, Loyd, Lukert, Mah, McKinney, Menghini, M. Miller, Jim Morrison, O'Malley, Owens, Pauls, Peterson, Phelps, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Ward, Williams, Winn, Wolf, Yonally.

Nays: Aurand, Beamer, Brown, Brunk, Burgess, Carlson, Carter, Dahl, DeCastro, Decker, Faber, Freeborn, George, Gordon, Grange, Hayzlett, M. Holmes, Huebert, Humerickhouse, Hutchins, Huy, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Mast, Masterson, Mays, McCreary, McLeland, Merrick, F. Miller, Judy Morrison, Myers, Neufeld, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Powell, Powers, Schwab, Schwartz, Shultz, Siegfried, Tafanelli, Vickrey, Watkins, Wilk, Yoder.

Present but not voting: None.

Absent or not voting: Bethell, Edmonds, C. Holmes, Weber.

The motion of Rep. Holland prevailed.

On Part B of the motion of Rep. Holland to amend **HB 2615**, Rep. Hutchins moved that the bill be rereferred to Committee on Federal and State Affairs.

Roll call was demanded.

On roll call, the vote was: Yeas 62; Nays 59; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Beamer, Brown, Brunk, Carlson, Carter, Colloton, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Freeborn, George, Gordon, Grange, Hayzlett, M. Holmes, Huebert, Humerickhouse, Huntington, Hutchins, Huy, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Loyd, Mast, Masterson, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Pilcher-Cook, Powell, Proehl, Roth, Schwab, Schwartz, Shultz, Siegfried, Tafanelli, Vickrey, Watkins, Wolf, Yoder.

Nays: Ballard, Burgess, Burroughs, Carlin, Cox, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Horst, Huff, D. Johnson, Kirk, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, McKinney, Menghini, M. Miller, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Ward, Wilk, Williams, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Bethell, Goico, C. Holmes, Weber.

The motion prevailed and **HB 2615** be rereferred to Committee on Federal and State Affairs.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 500** 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 **Higher Education** recommends **SB 332** be amended on page 2, in line 25, after the period by inserting "Such insurance shall be purchased on a competitively bid or competitively negotiated basis in accordance with procedures prescribed by the state board of regents."; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 297** be passed.

Committee on **Judiciary** recommends **SB 354, SB 550** be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **SB 25** be amended on page 1, in line 22, by striking all after "felony"; by striking all in line 23; in line 24, by striking all before the period;

On page 2, in line 4, by striking all after "felony"; by striking all in line 5; in line 6, by striking all before the period;

On page 5, by striking all in lines 13 through 43;

By striking all on page 6;

On page 7, by striking all in lines 1 through 13 and inserting the following:

"Sec. 4. K.S.A. 2005 Supp. 21-3106 is hereby amended to read as follows: 21-3106. (1) A prosecution for murder, *terrorism or illegal use of weapons of mass destruction* may be commenced at any time.

(2) Except as provided in subsection (5), a prosecution for any crime must be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(3) (a) Except as provided in subsection (5), a prosecution for a sexually violent offense as defined in K.S.A. 22-3717, and amendments thereto, must be commenced within the limitation of time provided by the law pertaining to such offense or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

(b) For purposes of this section, "DNA" means deoxyribonucleic acid.

(4) Except as provided by subsection (5), a prosecution for any crime, as defined in K.S.A. 21-3105, and amendments thereto, not governed by subsections (1), (2) or (3) must be commenced within five years after it is committed.

(5) The period within which a prosecution must be commenced shall not include any period in which:

(a) The accused is absent from the state;

(b) the accused is concealed within the state so that process cannot be served upon the accused;

(c) the fact of the crime is concealed;

(d) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(e) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(f) whether or not the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present: (i) The victim was a child under 15 years of age at the time of the crime; (ii) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime; (iii) the victim was prevented by a parent or other legal authority

from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and (iv) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in this section later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime. "Parent or other legal authority" shall include but not be limited to natural and stepparents, grandparents, aunts, uncles or siblings.

(6) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(7) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.;

On page 9, in line 10, by striking "2004" and inserting "2005"; in line 20, before the period by inserting "and shall not be subject to statutory provisions for suspended sentence, community service or probation";

On page 11, in line 6, by striking "2004" and inserting "2005"; in line 41, by striking "2004 Supp.;"

On page 12, in line 13, by striking "2004" and inserting "2005"; in line 28, by striking the first "and" and inserting a comma; also in line 28, before the second "and" by inserting "and 60-4104"; in line 29, by striking "2004" and inserting "2005"; also in line 29, by striking the second comma and inserting "and"; also in line 29, by striking "and 60-4104";

In the title, in line 12, by striking the first "and" and inserting a comma; also in line 12, after "22-2515" by inserting "and 60-4104"; also in line 12, by striking "2004" and inserting "2005"; in line 13, by striking the second comma and inserting "and"; also in line 13, by striking "and 60-4104"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 40** be amended on page 1, in line 31, by striking "wavied" and inserting "waived"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 355** be amended on page 1, in line 29, by striking "If" and inserting "Except as provided further, if"; in line 30, by striking "may" and inserting "shall"; in line 31, by striking "or" and inserting ". Upon motion of any party to the proceedings, the district judge may"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2548** be passed.

Committee on **Taxation** recommends **HB 2689** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2689," as follows:

"Substitute for HOUSE BILL No. 2689

By Committee on Taxation

"AN ACT concerning sales taxation; relating to authority for countywide retailers' sales tax in certain counties; amending K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, 12-189, as amended by section 2 of House Bill No. 2698, and 12-192 and repealing the existing sections.;" and the substitute bill be passed.

(**Sub. HB 2689** was thereupon introduced and read by title.)

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 3004**, An act concerning certified public accountants; relating to admission to examination; amending K.S.A. 2005 Supp. 1-302a and repealing the existing section, by Committee on Taxation.

**HB 3005.** An act establishing the veterinary training program for rural Kansas; prescribing guidelines and limitations therefor; authorizing certain loans and agreements thereunder, by Committee on Appropriations.

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

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

