

Journal of the House

EIGHTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, January 24, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair. The roll was called with 121 members present.

Rep. O'Brien was excused on verified illness.

Reps. Minor and Thimesch were excused on legislative business.

Rep. Novascone was excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Wayne H. Hett, pastor, Riverside Southern Baptist Church, Independence, and guest of Rep. Miller:

Lord God of heaven, we come before you today acknowledging who you are and our need of you in our lives. And thinking of the work of this House of Representatives, we also acknowledge you as the Great law-giver. I thank you for this body of lawmakers in our state of Kansas. We ask for your blessing and guidance upon them, that the laws passed by this body will be fair and just to all people both great and small. Guide each of us that we may obey your laws, that we may honor you in our lives. Lord God, I offer this prayer in the name of my Lord and Savior Jesus Christ. Amen.

The Pledge of Allegiance was led by Rep. Stone.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

HB 2678, An act relating to insurance; providing coverage for expenses of clinical trials; amending K.S.A. 2001 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Insurance.

HB 2679, An act concerning lifetime hunting, fishing and furharvester licenses; amending K.S.A. 32-930 and repealing the existing section, by Committee on Environment.

HB 2680, An act relating to violations of wildlife and parks laws; concerning cash bonds; amending K.S.A. 32-1050 and repealing the existing section, by Committee on Environment.

HB 2681, An act concerning home plus; increasing the number of individuals to eight; amending K.S.A. 39-923 and repealing the existing section, by Committee on Appropriations.

HB 2682, An act concerning state officers and employees; relating to compensation; concerning certain job classifications and prescribing certain job market studies; amending K.S.A. 75-2938 and repealing the existing section, by Committee on Appropriations.

HB 2683, An act concerning alcoholic liquor; relating to consumption in certain places; amending K.S.A. 41-719 and repealing the existing section, by Representative O'Neal.

HB 2684, An act concerning the establishment of the citizens' insurance advisory board; amending K.S.A. 40-955 and repealing the existing section, by Committee on Kansas Futures.

HB 2685, An act relating to income taxation; providing a credit for long-term health care insurance premiums; amending K.S.A. 2001 Supp. 79-32,117 and repealing the existing section, by Committee on Kansas Futures.

HB 2686, An act concerning solid waste tonnage fees; amending K.S.A. 2001 Supp. 65-3415b and 65-3415f and repealing the existing sections, by Committee on Environment.

HB 2687, An act concerning livestock; relating to regulation of livestock remedies; amending K.S.A. 65-2701 and K.S.A. 2001 Supp. 65-679 and 65-1626; also repealing K.S.A. 47-501, 47-502, 47-503, 47-505, 47-507, 47-508, 47-509, 47-510, 47-513, 47-514 and 47-515 and K.S.A. 2001 Supp. 47-504, by Committee on Agriculture.

HB 2688, An act enacting the addictions counselor licensure act; amending K.S.A. 2001 Supp. 74-7507 and repealing the existing section; also repealing K.S.A. 65-6601 through 65-6606, by Committee on Health and Human Services.

HB 2689, An act concerning dams, levees and other water obstructions; fees; inspections; amending K.S.A. 24-126, 82a-302 and 82a-303b and repealing the existing sections, by Committee on Agriculture.

HB 2690, An act concerning the state board of regents; relating to scientific research and development facilities for educational institutions under the control and supervision of the state board of regents, by Committee on Appropriations.

HB 2691, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; vesting; amending K.S.A. 2001 Supp. 74-4917 and repealing the existing section, by Committee on Appropriations.

HB 2692, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; benefit multiplier; amending K.S.A. 2001 Supp. 74-4915 and repealing the existing section, by Committee on Appropriations.

HB 2693, An act regulating traffic; prohibiting use of compression release engine braking system in certain locations; amending K.S.A. 8-2118 and repealing the existing section, by Committee on Transportation.

HB 2694, An act relating to trust companies; concerning name change; amending K.S.A. 9-2106 and repealing the existing section, by Committee on Financial Institutions.

HB 2695, An act relating to banks and banking; concerning the board of directors; amending K.S.A. 9-1114 and repealing the existing section, by Committee on Financial Institutions.

HB 2696, An act concerning congressional districts; providing for the redistricting thereof; repealing K.S.A. 4-128, 4-133 and 4-135, by Representative Findley.

HOUSE CONCURRENT RESOLUTION No. 5041—

By Committee on Agriculture

A CONCURRENT RESOLUTION urging the United States Congress to allow interstate marketing of state inspected meat.

WHEREAS, The Federal Wholesale Meat Act of 1967 allows states to have state meat inspection programs which are required to meet or exceed federal inspection standards of the United States Department of Agriculture for wholesomeness, cleanliness and food safety; and

WHEREAS, Kansas is in the majority of states which have elected to operate equivalent meat inspection programs allowing state-licensed and state-inspected meat processing facilities to engage in intrastate commerce. Other states are pursuing implementation of state inspection of their meat processing facilities; and

WHEREAS, State meat inspection programs are flexible and can efficiently and safely adapt their activities to small, local meat processors that cannot be duplicated by the federal inspection program because of its size and complexity; and

WHEREAS, State-inspected meat and poultry products are currently barred from interstate commerce under federal law, including neighboring local markets in other states, despite current meat safety and quality assurances, affecting long-range rural development and economic growth strategies within the meat processing industry; and

WHEREAS, Such limitation on marketing of state inspected meat inhibits economic development and value-added agricultural activities in this nation's agricultural sector; and

WHEREAS, Current policy of the National Association of State Departments of Agriculture supports the interstate shipment of state-inspected meat products: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we urge the United States Congress to enact revisions to the Federal Meat Inspection Act and the Poultry Products Inspection Act to allow the interstate shipment and marketing of meat products by state inspected meat processing facilities; and

Be it further resolved: That the Secretary of State be directed to send an enrolled copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Agriculture and each member of the Kansas Congressional delegation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Business, Commerce and Labor: **HB 2674, HB 2676.**

e-Government: **HB 2667.**

Education: **HB 2668, HB 2669.**

Ethics and Elections: **HB 2677.**

Health and Human Services: **HB 2664, HB 2665, HB 2666.**

Judiciary: **HB 2671, HB 2672, HB 2673.**

Local Government: **HB 2670.**

Transportation: **HB 2662, HB 2663, HB 2675.**

COMMUNICATIONS FROM STATE OFFICERS

From Joyce Glasscock, Acting Secretary of Administration, in accordance with K.S.A. 75-37,110, report on activities of the Employee Award Board, January 2002.

From Kansas Sentencing Commission/Criminal Justice Coordinating Council, Kansas Criminal Justice System Resource Directory, 2001-2002.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to House Rule 2306, **HB 2216** was withdrawn from the calendar under the heading General Orders and rereferred to Committee on Federal and State Affairs.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6003—

By Representatives Larkin and Toplikar, Aday, Boston, Cook, Dahl, Faber, Gatewood, Hayzlett, Henry, Huebert, Hutchins, Huy, Kauffman, Lightner, Lloyd, M. Long, P. Long, Mayans, Mays, McClure, Merrick, Miller, Jim Morrison, Myers, Novascone, Osborne, Ostmeyer, Patterson, Pauls, Phelps, L. Powell, Powers, Pyle, Reardon, Ruff, Shultz, Thimesch, Vickrey, D. Williams and Wilson

A RESOLUTION requiring the attorney general to bring action to determine certain issues of law concerning unborn children and to seek a permanent injunction to prohibit the expenditure of state funds for the purpose of terminating the lives of innocent human beings including the unborn.

WHEREAS, The constitution of Kansas provides for the basic organization of state government, defines and limits the powers of the state and guarantees certain fundamental rights to all men; and

WHEREAS, The Bill of Rights of the constitution is a declaration of the basic rights of all men that may not be denied or infringed upon by the state or any local government; and

WHEREAS, The United States Supreme Court holds that the very purpose of a Bill of Rights is to withdraw certain subjects from political debate, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the

courts. (See *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 638 (1943)); and

WHEREAS, Section one of the Bill of Rights of the constitution of Kansas states that "All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." The right to life, logically enumerated first, is the basic, most fundamental right without which all others are meaningless; and

WHEREAS, The term "men" is accepted to include adult males, women, and children, in other word, all human beings; and

WHEREAS, All medical and scientific evidence acknowledges and affirms that children before birth share all the basic attributes of human personality--that they in fact are identifiable individual human beings; the unborn child is considered a person for purposes of qualifying for medical care under the federal medicaid program; modern medicine treats unborn children as patients; through ultrasound imaging and other techniques we can see the child's amazing development; by using DNA profiling, before birth, indeed, even before the new being is implanted in her mother's womb, we can be absolutely sure we are monitoring the same individual from conception/fertilization through the various stages of growth; and

WHEREAS, The legislature of the state of Kansas has acknowledged, even as recently as 1994, that a human being exists before birth by requiring the postponement of the execution of a pregnant convict "until the child is born." [K.S.A. 22-4009 (b)]; and

WHEREAS, The Kansas supreme court acknowledged in *Smith v. Deppish*, 248 Kansas 217, 231 (1991) that "we humans create human offspring by transferring our DNA to our children" and that this is done "during reproduction....," also known biologically as fertilization or conception, or both. The Court further acknowledged in *Smith v. Deppish*, 248 Kansas 217, 232 (1991) that "each persons" DNA can be "individualized"; and

WHEREAS, A controversy now exists when the pregnancy of a woman constitutes the presence of a second person in order to qualify for medicaid while at the same time allowing such funds to be expended for the purpose of terminating the life of that "second person" as well as the lives of other preborn human beings. Through the use of matching funds in, and the administration of, the medicaid program and the use of state facilities in the termination of the lives of innocent human beings, the state has become a direct party in violating section 1 of the Bill of Rights of the constitution of Kansas; and

WHEREAS, This matter involves issues of law which have never been resolved by the courts of the state of Kansas except to the extent questions have been raised in the Kansas Supreme Court by *City of Wichita vs. Elizabeth A. Tilson*, 253 Kansas 285 (1991): Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That, based on undeniable medical, biological and scientific facts, we do hereby acknowledge and affirm that the unborn children in the state of Kansas have an equal and inalienable right to life from conception/fertilization and that allowing the termination of the lives of innocent human beings even before birth violates section 1 of the Bill of Rights of the Kansas Constitution; and

Be it further resolved: That in accordance with K.S.A. 75-702, the attorney general of the state of Kansas is hereby required to seek final resolution of this issue in the supreme court of the state of Kansas and such other courts as may be warranted; the attorney general is further directed to bring action in mandamus and *quo warranto* against the governor as chief executive officer of the state and the secretary of social and rehabilitation services as administrative officer of the medicaid program in Kansas for the granting of a prospective permanent injunction barring the defendants from expending state funds for the purpose of paying for the termination of the lives of innocent human beings, whether in utero or ex utero; and the attorney general is further directed and ordered to plead to the court that upon conception/fertilization there is life, that this life is that of a human being and to further plead to the court to acknowledge and affirm that this human being is an "individual", a "man" under the constitution of the state of Kansas. The most recent medical, biological, and scientific facts and developments, especially those concerning the beginning of life and the incontestable reliance on DNA profiling as a positive means of identification, must be presented to the court in support of the above mentioned plea.

REPORTS OF STANDING COMMITTEES

The Committee on **Agriculture** recommends **HB 2602** be passed.

The Committee on **Taxation** recommends **HB 2089** be amended on page 1, in line 14, by striking "2000" and inserting "2001";

On page 4, in line 39, by striking "2000" and inserting "2001";

In the title, in line 10, by striking "2000" and inserting "2001"; and the bill be passed as amended.

The Committee on **Transportation** recommends **HB 2603** be passed.

REPORT OF STANDING COMMITTEE

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

Request No. 7, by Representative Dreher, congratulating Alison M. Garrett on being named to the Washburn President's Honor Roll;

Request No. 8, by Representative Patterson, honoring Julie A. Robinson on her appointment and confirmation as United States District Court Judge for the District Court of Kansas;

Request No. 9, by Representative Sharp, commending Jonathan Ensley on earning the rank of Eagle Scout;

Request No. 10, by Representative Osborne, congratulating Leann D. Sims on being named to the Washburn President's Honor Roll;

Request No. 11, by Representative Kauffman, congratulating Ashlee N. Smith on being named to the Washburn President's Honor Roll;

Request No. 12, by Representative Glasscock, honoring James Butler in recognition of outstanding service to the advancement of the civil rights cause in Kansas;

Request No. 13, by Representative Tafenelli, commending the Army Mobilization Branch in appreciation of meritorious service and dedication to duty in response to the National Disaster beginning September 11, 2001;

Request No. 14, by Representative Mason, congratulating the Chelsea Swingin' Squares of Eldorado on the 50th anniversary of their club on January 26, 2002;

Request No. 15, by Representative Dreher, congratulating Walter and Billie Smith on their 60th wedding anniversary;

Request No. 16, by Representative Dahl, congratulating Albert and Evelyn Ollenberger on their 60th wedding anniversary;

Request No. 17, by Representative Powers, congratulating Steve Griffin on earning the rank of Eagle Scout;

Request No. 18, by Representative Loyd, congratulating Kevin Meier on earning the rank of Eagle Scout;

Request No. 19, by Representative Hayzlett, congratulating Dick and Hazel LaPorte on their 50th wedding anniversary;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and drafting of said resolutions.

On motion of Rep. Weber, the committee report was adopted.

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 2697, An act concerning civil procedure for limited actions; amending K.S.A. 2001 Supp. 61-2910 and repealing the existing section, by Committee on Judiciary.

HB 2698, An act concerning taxation; relating to real estate sales validation questionnaires; amending K.S.A. 79-1437e and repealing the existing section, by Representative O'Neal.

HB 2699, An act relating to motor vehicles; concerning license plates; amending K.S.A. 8-133 and repealing the existing section, by Representatives Benlon and Bethell.

HB 2700, An act concerning agriculture; relating to plants and plant products, plant pests and plant dealers; certain agriculture commodities; amending K.S.A. 2-2112, 2-2113, 2-2114, 2-2115, 2-2116, 2-2117, 2-2118, 2-2120, 2-2122, 2-2123, 2-2124, 2-2125, 2-2126, 2-2128 and 2-2129 and repealing the existing sections; also repealing K.S.A. 2-411, 2-412, 2-413, 2-414, 2-415, 2-417, 2-418, 2-422, 2-422a, 2-424, 2-426, 2-427, 2-428, 2-1119 and 2-2121, by Committee on Agriculture.

HB 2701, An act concerning agriculture; relating to powers, duties and responsibilities of secretary of agriculture; fees and penalties; amending K.S.A. 2-1205, 2-2204, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2805, 2-2806, 2-2905, 2-2906, 2-3304, 2-3306, 2-3318, 65-6a34, 82a-727, 82a-732, 83-201 and 83-205 and K.S.A. 2001 Supp. 65-6a18, 65-771, 65-775, 65-778, 65-781, 65-782, 65-789, 82a-708a, 82a-708b, 82a-714, 83-302 and 83-402 and repealing the existing sections, by Committee on Agriculture.

HB 2702, An act concerning property taxation; providing exemptions for certain property, by Committee on New Economy.

On motion of Rep. Weber, the House adjourned pro forma until 9:00 a.m., Friday, January 25, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

