

# Journal of the House

## FORTIETH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, March 8, 2005, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.  
The roll was called with 121 members present.  
Reps. Cox and Showalter were excused on verified illness.  
Rep. Shultz was excused on legislative business.  
Rep. Landwehr was excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Jerry Quiring, pastor, Faith Community Church, Topeka, and guest of Rep. Burgess:

Gracious God,

I give You thanks today for each person in this room, for their willingness to wrestle with decisions that affect millions of children and adults across this state. I pray for them first of all as human beings who have concerns for their own health and well being and for that of their own family and friends. May your Spirit give them a sense of your presence and your compassion.

I also lift up each legislator in this room. Keep them, keep all of us, from the greatest idolatry of all, the idolatry of certainty. Remind each of us that any ideology, any religion, is but a human quest for that which we can only know in part. Keep teaching us, O God, that you are truth and we are but seekers after truth.

Keep reminding us, O God, that it is not a question of whether you are on our side, but whether we are on your side. May your Spirit guide each of us as together we seek to find your path for our lives and our communities. Amen.

The Pledge of Allegiance was led by Rep. Ward.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2514**, An act concerning the transportation development district act; relating to infrastructure development; amending K.S.A. 2004 Supp. 12-17,140, 12-17,141, 12-17,142, 12-17,144, 12-17,145, 12-17,146, 12-17,147, 12-17,150 and 12-17,151 and repealing the existing sections, by Committee on Taxation.

**HB 2515**, An act concerning schools and school districts; relating to school finance; funding thereof; income and sales taxation, rate increases; income tax credits; school ad valorem tax levy and exemption therefrom; resident trust; limitations on refunds; amending K.S.A. 40-2246, 72-6410, 72-6433, 79-32,109, 79-32,176 and 79-32,190 and K.S.A. 2004 Supp. 72-6431, 79-201x, 79-3230, 79-32,110, 79-32,197, 79-32,206, 79-3603, 79-3609, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 79-32,121, by Committee on Taxation.

### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture: **HCR 5016**.

Appropriations: **HB 2512**.

Taxation: **HB 2511**.

Transportation: **HB 2513**.

#### CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2508** from Committee on Appropriations and referral to Committee on Agriculture.

#### CONSENT CALENDAR

Objection was made to **SB 219** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **HB 2469** appearing on the Consent Calendar for the second day.

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

#### COMMITTEE OF THE WHOLE

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

Recommended that **HB 2288**; **SB 16** be passed.

On motion of Rep. Powell, **HB 2116** be amended on page 3, following line 3, by inserting: "Sec. 5. K.S.A. 2004 Supp. 32-937 is hereby amended to read as follows: 32-937. (a) When used in this section:

(1) "Landowner" means a resident owner of farm or ranch land of 80 acres or more located in the state of Kansas.

(2) "Tenant" means an individual who is actively engaged in the agricultural operation of 80 acres or more of Kansas farm or ranch land for the purpose of producing agricultural commodities or livestock and who: (A) Has a substantial financial investment in the production of agricultural commodities or livestock on such farm or ranch land and the potential to realize substantial financial benefit from such production; or (B) is a bona fide manager having an overall responsibility to direct, supervise and conduct such agricultural operation and has the potential to realize substantial benefit from such production in the form of salary, shares of such production or some other economic incentive based upon such production.

(3) "Regular season" means a statewide big game hunting season authorized annually which may include one or more seasons restricted to specific types of equipment.

(4) "Special season" means a big game hunting season in addition to a regular season authorized on an irregular basis or at different times of the year other than the regular season.

(5) "General permit" means a big game hunting permit available to Kansas residents not applying for big game permits as a landowner or tenant.

(6) "Nonresident landowner" means a nonresident of the state of Kansas who owns farm or ranch land of 80 acres or more which is located in the state of Kansas.

(7) "Nonresident permit" means a big game hunting permit available to individuals who are not Kansas residents.

(b) Except as otherwise provided by law or rules and regulations of the secretary and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, a valid big game permit and game tags are required to take any big game in this state.

(c) The fee for big game permits and game tags shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) A big game permit and game tags are valid throughout the state or such portion thereof as provided by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a big game permit and game tags are valid from the date of issuance and shall expire at the end of the season for which issued.

(f) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for each regular or special big game hunting season and for each management unit regarding big game permits and game tags. The secretary is hereby authorized to issue big game permits and game tags pertaining to the taking of big game. Separate big game permits and game tags may be issued for each species of big game. No big game permits or game tags shall be issued until the secretary has established, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, a regular or special big game hunting season.

(g) The secretary may authorize, by rule and regulation adopted in accordance with K.S.A. 32-805, and amendments thereto, landowner or tenant hunt-on-your-own-land big game permits. Such permits and applications may contain provisions and restrictions as prescribed by rule and regulation adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(h) The secretary may authorize, by rule and regulation adopted in accordance with K.S.A. 32-805 and amendments thereto, special landowner or tenant hunt-on-your-own-land deer permits. Such special permits shall not be issued to landowners or tenants in possession of a hunt-on-your-own-land deer permit as authorized in subsection (g). The special permits shall be transferable to any immediate family member of the landowner or tenant, whether or not a Kansas resident, or the permit may be retained for use by the landowner or tenant. The special permits shall be transferable through the secretary at the request of the landowner or tenant and by paying the required fee for a general deer permit. The special permits and applications may contain provisions and restrictions as prescribed by rule and regulation adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto. For the purposes of this subsection, "member of the immediate family" means lineal or collateral ascendants or descendants, and their spouses.

(i) Fifty percent of the big game permits authorized for a regular season in any management unit shall be issued to landowners or tenants, provided that a limited number of big game permits have been authorized and landowner or tenant hunt-on-your-own-land big game permits for that unit have not been authorized. A landowner or tenant is not eligible to apply for a big game permit as a landowner or as a tenant in a management unit other than the unit or units which includes such landowner's or tenant's land. Any big game permits not issued to landowners or tenants within the time period prescribed by rule and regulation may be issued without regard to the 50% limitation.

(j) Members of the immediate family who are domiciled with a landowner or tenant may apply for a resident big game permit as a landowner or as a tenant, but the total number of landowner or tenant hunt-on-your-own-land or special hunt-on-your-own-land permits issued to a landowner or tenant and a landowner's or tenant's immediate family for each big game species shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. The secretary may require proof of ownership or tenancy from individuals applying for a big game permit as a landowner or as a tenant.

(k) The secretary may issue permits for deer to nonresident landowners, but any such permit shall be restricted to hunting only on lands owned by the nonresident landowner.

(l) The secretary may issue deer hunting permits to nonresidents, subject to the following limitations:

(1) The total number of nonresident deer firearm permits of each type specified by rules and regulations that may be issued for a deer season in a management unit and which may be used to take antlered deer shall for the year 2004, not be less than 7% nor more than 14%; for the year 2005, not be less than 8% nor more than 16%; for the year 2006, not be less than 9% nor more than 18%; and for any year thereafter, not be less than 10% nor more than 20%, of the total number of resident deer firearm permits of such type authorized for such season in such management unit; and

(2) the total number of nonresident deer archery permits of each type specified by rules and regulations that may be issued for a deer season in a management unit and which may be used to take antlered deer shall for the year 2004, not be less than 9.5% nor more than 19%; for the year 2005, not be less than 10.5% nor more than 21%; for the year 2006, not be less than 11.5% nor more than 23%; and for any year thereafter, not be less than 12.5%

nor more than 25%, of the total number of resident deer archery permits of such type authorized for such season in such management unit.

Nonresident deer permits may be restricted to a particular deer species without regard to resident deer permit species restrictions, or lack thereof.

If an unlimited number of resident deer permits that may be used to take antlered deer is authorized for a deer season or management unit, the percentage limitations of subsections (l)(1) and (l)(2) shall be based upon the total number of resident firearm permits that may be used to take antlered deer and the total number of archery permits that may be used to take antlered deer, respectively, issued in the management unit during the most recent preceding similar season. If in a management unit there are an unlimited number of resident permits that may be used to take only antlerless deer, the secretary, in the secretary's discretion and in accordance with rules and regulations, may authorize the issuance of an unlimited number of nonresident permits that may be used to take only antlerless deer.

(m) Any nonresident deer hunting permits authorized under subsection (l) that remain unissued due to an insufficient number of nonresident applications as of a deadline determined by the secretary, shall be made available to residents.

(n) The secretary shall issue nonresident deer permits pursuant to subsection (l) to landowners and tenants applying for such permits, except that the total number of nonresident deer permits of each type specified by rules and regulations that may be issued to landowners and tenants for a deer season in a management unit shall not exceed 50% of the total number of nonresident deer permits of such a type authorized for such season in such management unit. A nonresident deer permit obtained by a landowner or tenant shall retain the permit's nonresident and species designation, except that such permit shall only be valid within a designated county and one additional county where the qualifying landowner's or tenant's lands are located. The permit shall be transferable, with or without consideration, to any resident or nonresident through the secretary at the request of the landowner or tenant. A landowner or tenant purchasing a nonresident deer permit pursuant to this subsection shall pay the established fee for a nonresident deer permit.

The provisions of this subsection shall expire on June 30, 2007.

(o) On or before January 31, 2005:

(1) The secretary, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, shall establish not less than nine archery management units for deer. To the extent possible, boundaries of firearm management units for deer shall be used in establishing the boundaries of such archery management units.

(2) The secretary shall submit to the house standing committee on tourism and parks and the senate standing committee on natural resources a report regarding the archery management units established pursuant to subsection (o)(1).

(p) A big game permit shall state the species, number and sex of the big game which may be killed by the permittee. The secretary may furnish an informational card with any big game permit and, at the conclusion of the open season, each permittee receiving such card shall return the card to the department, giving such information as is called for on the card.

(q) The permittee shall permanently affix the game tag to the carcass of any big game immediately after killing and thereafter, if required by rules and regulations, the permittee shall immediately take such killed game to a check station as required in the rules and regulations, where a check station tag shall be affixed to the game carcass if the kill is legal. The tags shall remain affixed until the carcass is consumed or processed for storage.

(r) The provisions of this section do not apply to big game animals sold in surplus property disposal sales of department exhibit herds or big game animals legally taken outside this state.

(s) *A landowner or tenant in possession of an antelope permit may transfer such permit, with or without consideration to any resident or nonresident through the secretary. Upon receipt of a request for transfer of an antelope permit by a landowner or tenant in possession of such permit, the secretary shall transfer the antelope permit to the resident or nonresident designated by the landowner or tenant. The secretary may charge a transfer fee of not more than \$50 if the permit is transferred to a resident or nonresident.*

Sec. 6. K.S.A. 2004 Supp. 32-937 is hereby repealed.;

And by renumbering section accordingly;

On page 1, in the title, in line 10, before the period, by inserting “; relating to permits and fees; amending K.S.A. 2004 Supp. 32-937 and repealing the existing section”; and **HB 2116** be passed as amended.

Committee report to **HB 2478** be adopted; and the bill be passed as amended.

On motion of Rep. Neufeld, **SB 266** be amended on page 2, in line 2, by striking “statute book” and inserting “Kansas register”; and **SB 266** be passed as amended.

On motion of Rep. Kirk to amend **HB 2308**, the motion did not prevail.

Also, roll call was demanded on motion of Rep. Crow to amend **HB 2308** on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2004 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2003 and 2004~~ 2005 and 2006, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, 72-6435 and 72-8801 *et seq.*, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.”;

And by renumbering sections accordingly;

On page 4, in line 4, after “Supp.” by inserting “79-201x and”; also in line 4, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, by striking the first semicolon and inserting a comma; also in line 10, before “amending” by inserting “exemption for residential property.”; also in line 10, after “Supp.” by inserting “79-201x and”; in line 11, by striking “section” and inserting “sections”;

On roll call, the vote was: Yeas 57; Nays 59; Present but not voting: 0; Absent or not voting: 9.

Yeas: Ballard, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, Huntington, Hutchins, Huy, Jack, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Judy Morrison, Oharah, Pauls, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Carlson, Carter, Dahl, Decker, Faber, George, Gordon, Grange, Hayzlett, M. Holmes, Horst, Huebert, Huff, Humerickhouse, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Light, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O’Malley, Olson, Otto, Owens, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Siegfried, Sloan, Watkins, Weber, Wilk, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Cox, DeCastro, Edmonds, Goico, Landwehr, O’Neal, Peterson, Showalter, Shultz.

The motion of Rep. Crow did not prevail; and **HB 2308** be passed.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 113** be amended on page 1, after line 31, by inserting the following:

“Sec. 2. K.S.A. 2-2808 is hereby amended to read as follows: 2-2808. It shall be a violation of this act for any person to:

- (a) Distribute a soil amendment that is not registered with the secretary;
- (b) distribute a soil amendment that is not labeled;
- (c) distribute a soil amendment that is misbranded;
- (d) distribute a soil amendment that is adulterated; *or*
- (e) fail to comply with a stop sale, use or removal order; ~~or~~
- ~~(f) fail to file the tonnage report or pay the inspection fee.”;~~

And by renumbering sections accordingly;

Also on page 1, in line 32, before “K.S.A.” by inserting “K.S.A. 2-2808 and”;

On page 1, in the title, in line 10, after “amending” by inserting “K.S.A. 2-2808 and”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Financial Institutions** recommends **SB 57, SB 101, SB 104, SB 114** be passed.

Committee on **Higher Education** recommends **SB 9** be passed.

Committee on **Taxation** recommends **SB 105** be passed.

Committee on **Taxation** recommends **HB 2057** be amended on page 1, in line 39, before "a" by inserting "the classification of"; in line 42, by striking all after the second comma; in line 43, by striking all before the semicolon and inserting "shall be reduced by two classes"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2448** be amended on page 7, in line 8, after "secretary" by inserting "of commerce"; in line 22, by striking "(b)" and inserting "(c)"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2505** be amended on page 2, in line 3, after the stricken material by inserting "but shall not include entities engaged in the distribution or retail sale of pharmaceuticals or other bioscience products";

On page 3, in line 13, by striking all after "(o)"; by striking all in line 14; in line 15, by striking "(p)"; in line 21, by striking "(q)" and inserting "(p)"; in line 27, by striking "(r)" and inserting "(q)"; in line 32, by striking "(s)" and inserting "(r)";

On page 4, in line 26, by striking "the fol-"; by striking all in lines 27 through 32; in line 33, by striking "2015 -"; also in line 33, by striking all after the period; by striking all in lines 34 through 39; and the bill be passed as amended.

(Having been referred separately, **HB 2505** is now in Committee on **Economic Development**.)

Committee on **Wildlife, Parks and Tourism** recommends **SB 98** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

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 bill was thereupon introduced and read by title:

**HB 2516**, An act concerning income taxation; relating to credits for investment in qualified business facility; assignment thereof; amending K.S.A. 2004 Supp. 79-32,160a and repealing the existing section, by Committee on Taxation.

#### CHANGE OF REFERENCE

Speaker pro tem Merrick announced the withdrawal of **HB 2331** from Select Committee on School Finance and rereferral to Committee on Education.

Also, the withdrawal of **SB 181** from Committee on Judiciary and referral to Select Committee on School Finance.

#### READING AND CORRECTION OF THE JOURNAL

In the Journal, on page 324, under Motions and Resolutions Offered on a Previous Day, **HR 6019** should read **HR 6010**.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Wednesday, March 9, 2005.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

