

# Journal of the House

TWENTY-THIRD DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, February 9, 2006, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.  
The roll was called with 119 members present.  
Reps. Flora and Winn were excused on verified illness.  
Reps. Brunk and George were excused on legislative business.  
Reps. Grange and Tafanelli were excused on excused absence by the Speaker.  
Present later: Rep. Brunk.

Prayer by guest chaplain, the Rev. Roger L. Freed, pastor, Olathe Wesleyan Church, and guest of Rep. Olson:

*An anonymous author prayed...*

*“Dear God, So far today, I’ve done all right. I haven’t gossiped. I haven’t lost my temper. I haven’t been greedy, grumpy, nasty, selfish or over indulgent.*

*“I’m very thankful for that. But in a few minutes, God, I’m going to get out of bed; and from then on, I’m going to need a lot more help. Amen.”*

*We are all out of bed now and in need of a lot more help.*

Our Gracious Father, we praise you for the great state of Kansas that we are blessed to call our home. Now before you stands a group of men and women entrusted by your sovereign hand and the citizens of their districts, with legislative responsibility for this state. We pray for your guidance in their deliberations today.

Remind us that we are your servants for good. Oh God, You alone are the author of all truth and the embodiment of good. Your word tells us that “whatever we do for one of the least of your children, we do for you.” So Father, please impress upon these representatives their responsibility to care for the weakest among us, the unborn, the children, the impoverished, the elderly and the infirmed.

Guard our spirits against pride, because you lift up the humble. Make us discerners of your perfect will and give us strong hearts and hands to accomplish our assigned duty. You have promised wisdom to those who would seek it. We recognize that you are the fountain of wisdom, may we drink deeply. We wait before you. Please oh God, lead the people of Kansas and these their representatives in the paths of your peace. In Christ’s name, Amen.

The Pledge of Allegiance was led by Rep. Lane.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

**HB 2863**, An act relating to postsecondary education; providing certain tuition waivers for state employees, by Representative Holland.

**HB 2864**, An act establishing the Chester I. Lewis scholarship program, by Representative M. Miller.

**HB 2865**, An act concerning contracts for the sale of residential real estate, by Committee on Commerce and Labor.

**HB 2866**, An act concerning sales taxation; relating to exemptions; homeless shelters; amending K.S.A. 2005 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

**HB 2867**, An act concerning water and watercourses; relating to dams; amending K.S.A. 82a-303c and K.S.A. 2005 Supp. 82a-303b and repealing the existing sections, by Committee on Environment.

**HB 2868**, An act enacting the asbestos and silica compensation fairness act; concerning asbestos and silica claims, by Committee on Judiciary.

**HB 2869**, An act making and concerning appropriations for the fiscal years ending June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2005 Supp. 2-223, 55-193, 75-2319, 76-775, 79-2959, 79-2964, 79-3425c, 79-3425i and 82a-953a and repealing the existing sections, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 5037—

By Representatives Garcia, Ballard, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Flaherty, Grant, Hawk, Henderson, Kirk, Kuetner, Loganbill, Long, Loyd, Mah, McKinney, Menghini, Owens, Pauls, Phelps, Pottorff, Ruff, Ruiz, Sawyer, Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Ward, Williams, Winn and Yonally

A CONCURRENT RESOLUTION memorializing the Congress of the United States to extend certain provisions of the Voting Rights Act of 1965.

WHEREAS, On March 7, 1965, a group of civil rights marchers gathered at the Edmund Pettus bridge in Selma, Alabama, and their efforts to advance equal voting rights brought a brutal and bloody response. Eight days later President Johnson called for a comprehensive and effective voting rights bill to guarantee to our citizens the rights contained in the 14th and 15th amendments to the United States constitution. A bipartisan congress approved landmark legislation, and on August 6, 1965, President Johnson signed the Voting Rights Act into law; and

WHEREAS, Considered one of the most successful pieces of civil rights legislation ever adopted, the act bans literacy tests and poll taxes, outlaws intimidation during the electoral process, authorizes federal election monitors and observers and creates various means for protecting and enforcing racial and language minority voting rights. The act was amended in 1975 to facilitate equal political opportunity for language minority citizens and in 1982 to protect the rights of voters with disabilities; and

WHEREAS, Despite noteworthy progress from 40 years of enforcement of the act, voter inequities, disparities and obstacles still remain for many minority voters; and

WHEREAS, Section 5 of the act is scheduled to expire in 2007. This section contains a special enforcement provision targeted at those areas of the country where congress believes the potential for discrimination to be high and prohibits any change affecting voters until the attorney general has determined that the change will not worsen the ability of minority voters to vote. Sections 4(f) and 203 will also expire in 2007. These sections require bilingual voting assistance for language minority communities in certain jurisdictions. The language minority provisions apply to four language minority groups: American Indians, Asian Americans, Alaskan natives and persons of Spanish heritage; and

WHEREAS, The Voting Rights Act is a critical link in the struggle to enfranchise the politically marginalized. Without reauthorization of these special provisions of the act, America risks a resurgence of voter discrimination: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the Kansas legislature memorializes the Congress of the United States to extend these critical provisions of the Voting Rights Act of 1965; and

*Be it further resolved:* That the Secretary of State provide an enrolled copy of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and each member of the Kansas legislative delegation.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills and resolution were referred to committees as indicated:

Appropriations: **HB 2861, HB 2862.**

Economic Development: **HB 2856.**

Federal and State Affairs: **HB 2860; HCR 5036.**

Insurance: **HB 2858.**

Taxation: **HB 2857, HB 2859.**

**CONSENT CALENDAR**

Objection was made to **HB 2681** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **HB 2759, HB 2794** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2583** appearing on the Consent Calendar for the second day.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2581**, An act relating to public libraries; concerning the basis for property tax levies thereof; enacting the children's internet protection act; prohibiting certain acts and providing remedies for violations; amending K.S.A. 75-2551 and 79-2930 and repealing the existing sections, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 115; Nays 4; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Freeborn, Garcia, Gatewood, Goico, Gordon, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, 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, Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Wolf, Yoder, Yonally.

Nays: Cox, Flaharty, Kuether, Sloan.

Present but not voting: None.

Absent or not voting: Brunk, Flora, George, Grange, Tafanelli, Winn.

The bill passed, as amended.

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

**COMMITTEE OF THE WHOLE**

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

Recommended that committee report to **HB 2732** be adopted; also, roll call was demanded on motion to recommend the bill favorably for passage.

On roll call, the vote was: Yeas 74; Nays 41; Present but not voting: 0; Absent or not voting: 10.

Yeas: Ballard, Bethell, Burgess, Carlin, Colloton, Cox, Craft, Crow, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Garcia, Gatewood, Goico, Grant, Hawk, Henderson, Henry, Hill, Holland, Horst, Huff, Humerickhouse, Huntington, Hutchins, D. Johnson, Kirk, Krehbiel, Kuether, Lane, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Jim Morrison, Judy Morrison, O'Malley, Oharah, Olson, Owens, Pauls, Peck, Peterson, Phelps, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, S. Sharp, Sloan,

Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Williams, Wolf, Yoder, Yonally.

Nays: Aurand, Beamer, Brown, Brunk, Burroughs, Carlson, Carter, Dahl, Freeborn, C. Holmes, M. Holmes, Huebert, Huy, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Landwehr, Light, Lukert, Mast, Masterson, Mays, McCreary, McLeland, Merrick, F. Miller, Myers, Neufeld, O'Neal, Otto, Pilcher-Cook, Powell, Powers, Schwartz, Shultz, Siegfried, Wilk.

Present but not voting: None.

Absent or not voting: Davis, DeCastro, Decker, Flora, George, Gordon, Grange, Hayzlett, Tafanelli, Winn.

The motion prevailed, and **HB 2732** be passed as amended.

On motion of Rep. DeCastro, **HB 2611** be amended on page 2, in line 3, after the period, by inserting "Notwithstanding any provision of law to the contrary, of each such fine received from clerks of the district court, the state treasurer shall credit \$40 to the child advocacy center fund established pursuant to K.S.A. 2005 Supp. 20-370, and amendments thereto.";

In the title, in line 9, before "amending" where it appears for the first time by inserting "relating to allocation of certain funds;"

Also, on motion of Rep. Oharah, **HB 2611** be amended on page 2, following line 26, by inserting:

"(f) From and after the effective date of this act, a law enforcement officer shall issue a warning citation to any nonresident violating the provisions of K.S.A. 8-1343 through 8-1347, and amendments thereto."

Also, on further motion of Rep. Oharah to amend **HB 2611**, the motion was withdrawn.

Also, on motion of Rep. Knox, **HB 2611** be amended on page 2, in line 14, after the period, by inserting: "At the time of issuing the citation for a violation of subsection (a)(1) or (a)(2) of K.S.A. 8-1344, and amendments thereto, the law enforcement officer shall notify the driver of the waiver provisions of this subsection."

Also, on motion of Rep. Huy to amend **HB 2611**, the motion was withdrawn, and the bill be passed as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HR 6010** be amended on page 1, in line 28, by striking "soybean" and inserting "soybeans"; and the resolution be adopted as amended.

Committee on **Financial Institutions** recommends **HB 2806** 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 **Financial Institutions** recommends **HB 2669** be amended on page 1, after line 12, by inserting the following:

"New Section 1. (a) Any employer which provides automatic enrollment in an employee retirement plan described in sections 401(k) or 403(b) of the internal revenue code, or a governmental deferred compensation plan described in section 457 of the internal revenue code, or a payroll deduction IRA plan described in section 408 or 408A of the internal revenue code, shall be relieved of liability for the actual decisions made by the employer on behalf of any participating employee as to the default investment of contributions made for that employee to the plan or program provided that:

(1) The plan allows the participating employee at least quarterly opportunities to select investments for the employee's contributions between investment alternatives available under the plan;

(2) the employee is given notice of the investment decisions that will be made in the absence of participant direction, a description of all the investment alternatives available for employee investment direction under the plan and a brief description of procedures available for the employee to change investments; and

(3) the employee is given at least annual notice of the actual default investments made of contributions attributable to the employee.

(b) As used in this section, "automatic enrollment" means a plan provision under which the employee will have a specified contribution made to the plan equal to a compensation reduction that will be made for the employee unless the employee affirmatively elects no

compensation reduction contributions or a compensation reduction contribution in another amount. The relief from liability of the employer under this section shall extend to any other plan official which actually makes the default investment decisions on behalf of participating employees.

(c) Nothing in this section shall modify any existing responsibility of employers or other plan officials for the selection of investment funds for participating employees.”;

By renumbering original sections accordingly;

Also on page 1, in line 21, by striking “an automatic enrollment in a 403(b)” and inserting “contributions attributable to automatic enrollment, as defined in section 1, and amendments thereto, in a”; in line 22, before the period, by inserting “described in sections 401(k), 403(b), 408, 408A or 457 of the internal revenue code”;

Also on page 1, in the title, in line 9, after “ACT” by inserting “concerning automatic enrollment retirement plans;”; 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 and concurrent resolution were thereupon introduced and read by title:

**HB 2870**, An act relating to schools; relating to nutritional food in school, by Representatives Carter and Watkins.

**HB 2871**, An act concerning the board of nursing; relating to a central registry of information concerning nurses; amending K.S.A. 65-1117 and repealing the existing section, by Committee on Health and Human Services.

**HB 2872**, An act designating little bluestem (*schizachyrium scoparium*) as the state grass of Kansas, by Representative Yoder.

**HB 2873**, An act concerning teachers; relating to licensure; amending K.S.A. 2005 Supp. 72-1388 and repealing the existing section, by Representatives Horst and Decker.

**HB 2874**, An act relating to transmission of money; providing for the regulation thereof; amending K.S.A. 9-508, 9-509, 9-510, 9-511, 9-512 and 9-513 and repealing the existing sections, by Committee on Federal and State Affairs.

**HB 2875**, An act concerning water; relating to the appropriation of water for beneficial use; amending K.S.A. 2005 Supp. 82a-714 and repealing the existing section, by Committee on Environment.

#### **HOUSE CONCURRENT RESOLUTION No. 5038—**

By Committee on Health and Human Services

A CONCURRENT RESOLUTION expressing the Kansas House of Representatives’ and Senate’s support for the creation of an Advanced Education in General Dentistry (AEGD) residency program to the benefit of the state of Kansas.

WHEREAS, The burden of oral disease restricts activities in school, work and home, and often significantly diminishes the quality of life by causing poor diet and nutrition, sleep disturbances, depression and impaired social interactions; and

WHEREAS, Americans lose 2.4 million days of work and children lose 1.6 million days of school each year due to acute dental conditions; and

WHEREAS, Eighty-four Kansas counties, along with the cities of Topeka and Wichita, are considered federal dental health shortage areas; and

WHEREAS, Studies show that without significant policy intervention, service gaps and resulting oral health problems will grow as the supply of dentists declines; and

WHEREAS, An AEGD residency program would attract post-doctoral dental students who would increase dental services to the under served; and

WHEREAS, The AEGD residency program would increase the likelihood that the dentists will remain in Kansas to practice: Now, therefore,

Be it Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Kansas Legislature supports the creation of an Advanced Educa-

tion in General Dentistry (AEGD) residency program, with the overarching goal of increasing access to dental care for all individuals in the state of Kansas.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6011—

By Committee on Health and Human Services

A RESOLUTION concerning physical education instruction in public schools.

WHEREAS, We live in a time when we have many modern conveniences that minimize the effort required to accomplish daily tasks. Our electronic devices make it possible to participate in games and activities which in a prior time would require physical action to participate. We watch television for hours on end making it a substitute for active entertainment; and

WHEREAS, This nation is facing a crisis of obesity. We combine a sedentary lifestyle with an excess of fatty, high calorie food. For many individuals this means a lifetime of struggling to maintain a healthy diet and for many it means a premature death; and

WHEREAS, Fortunately, we are recognizing the problem of obesity and healthy eating, and we are attempting to limit the availability of unhealthy candy, snacks and carbonated drinks at school; and

WHEREAS, To a large degree we have not focused on regular exercise for our school children. A moderate amount of exercise creates and develops healthy bodies and, if applied properly through regulated games, provides a sense of competition that urges our children to excel not only in sports but in the classroom and prepares participants for competition of later life; and

WHEREAS, Scheduled physical education classes for grades kindergarten through 12 would assist in assuring that our children exercise their bodies as well as their minds: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That the body supports physical education classes for all grades from kindergarten through 12; and

*Be it further resolved:* That the Kansas State Board of Education is urged to require some type of physical education class for all grades from kindergarten through 12; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to the chairperson of the Kansas State Board of Education.

#### **REPORT ON ENGROSSED BILLS**

**HB 2581** reported correctly engrossed February 8, 2006.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Friday, February 10, 2006.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

