

Journal of the House

FORTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 12, 2009, 10:30 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.

The roll was called with 122 members present.

Reps. Ballard, Winn and Yoder were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Tony Thornton, senior pastor, First Christian Church, Garnett, and guest of Rep. Feuerborn:

Our Most gracious Father in heaven,

As this another session of the Kansas House of Representatives begins, we pause to humbly acknowledge the gift of another day and the opportunity it brings to further Your Kingdom.

I thank you for these women and men, who are assembled here today, eager to serve You and the citizens of Kansas. Give them Your wisdom as they deliberate today. Remind them that they are not alone. You are with them. Remind them of the far-reaching implications of their decisions. Remind them that they represent both the affluent and as Jesus said, "the least of these."

I humbly ask that you would grant them Your peace as they deliberate and joy in knowing that their work is good. May their goal in passing laws always be measured by what you have said is true, and just, and holy.

This I ask in the Name of Jesus Christ the Lord. Amen.

The Pledge of Allegiance was led by Rep. Talia.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committee as indicated:

Taxation: **HB 2378, HB 2379, HB 2380.**

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **SB 31** from Committee on Health and Human Services and referral to Committee on Aging and Long Term Care.

Also, the withdrawal of **SB 43** from Committee on Elections and referral to Committee on Aging and Long Term Care.

MESSAGE FROM THE SENATE

Announcing passage of **SB 212, SB 213, SB 223, SB 262.**

Announcing passage of **HB 2023, HB 2045, HB 2068, HB 2091, HB 2142; Sub. HB 2339.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 212, SB 213, SB 223, SB 262.

CONSENT CALENDAR

No objection was made to **SB 122**, **SB 123**, **SB 137** appearing on the Consent Calendar for the first day.

No objection was made to **SB 40**, **SB 86** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2359** 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

HB 2359, An act concerning the state board of cosmetology; amending K.S.A. 65-1904 and repealing the existing section, was considered on final action.

Call of the House was demanded.

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

Yeas: Aurand, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Winn, Yoder.

The bill passed.

Sub. HB 2029, An act concerning cities; relating to annexation; amending K.S.A. 12-519, 12-520b, 12-521, 12-531 and 12-532 and K.S.A. 2008 Supp. 25-432 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 75; Nays 47; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Bowers, A. Brown, T. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Donohoe, Faber, Feuerborn, Fund, S. Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Knox, Landwehr, Lane, Light, Mah, Maloney, Mast, McLeland, Merrick, Morrison, Moxley, Navinsky, Neufeld, O'Brien, O'Neal, Otto, Palmer, Patton, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Svaty, Tafanelli, Trimmer, Vickrey, Watkins, Wetta, Whitham, Williams, B. Wolf.

Nays: Benlon, Bethell, Brookens, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, Goyle, Hawk, Henderson, Kleeb, Kuether, Loganbill, Long, Lukert, McCray-Miller, Menghini, Myers, Neighbor, Olson, Pauls, Pottorff, Quigley, Rardin, Roth, Ruiz, Sawyer, Siegfried, Slattery, Sloan, Spalding, Swanson, Swenson, Talia, Tietze, Ward, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Ballard, Winn, Yoder.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **Sub. HB 2029**. The bill provides annexation notice to prop-

erty owners, but voting rights for only registered voters. Thus, registered tenants, renters, and lessees are granted more property rights than actual property owners.

It's unclear in determining voting anomalies such as a tie or empty election.

Does the bill permit partial annexation or prohibit consensual annexation in the four year probation period?

It claims to defend property rights; however, it's an assault on them. By eliminating 102 of 105 counties the bill is non-uniform in its treatment of cities. If those cities charter out by Constitutional Home Rule, the bill accomplishes nothing.—ARLEN SIEGFREID

HB 2259, An act concerning health care; duties of the Kansas health policy authority, was considered on final action.

On roll call, the vote was: Yeas 58; Nays 64; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Bowers, A. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hermanson, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Merrick, Morrison, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Peterson, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfroid, Tafanelli, Vickrey, Watkins, Whitham.

Nays: Benlon, Bethell, Brookens, T. Brown, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Hill, Hineman, Huntington, Johnson, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Menghini, Moxley, Navinsky, Neighbor, Palmer, Pauls, Phelps, Pottorff, Quigley, Rardin, Roth, Ruiz, Sawyer, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, B. Wolf, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Ballard, Winn, Yoder.

The bill did not pass.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yes on **HB 2259** because poor people should have the same options as the rich.—BILL OTTO

MR. SPEAKER: I vote yes on **HB 2259**. This bill gives the poorest among us the opportunity for choice in healthcare. It empowers individuals to have ownership of their healthcare and encourages them to save for the future.—PEGGY MAST

Sub. HB 2320, An act concerning state finance; establishing the budget stabilization reserve fund in the state treasury; prescribing guidelines for expenditures from such fund and transfers between such fund and the state general fund; amending K.S.A. 2008 Supp. 75-3721 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 89; Nays 33; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Colloton, Craft, Crum, DeGraaf, Dillmore, Donohoe, Faber, Fund, D. Gatewood, George, Goico, Gordon, Goyle, Grange, Hayzlett, Henderson, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Light, Long, Maloney, Mast, McCray-Miller, McLeland, Merrick, Morrison, Moxley, Myers, Navinsky, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfroid, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Vickrey, Watkins, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley.

Nays: Benlon, T. Brown, Burroughs, Carlin, Crow, Davis, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, S. Gatewood, Grant, Hawk, Henry, Johnson, Kuether, Loganbill, Lukert, Mah, Menghini, Neighbor, Palmer, Pauls, Peterson, Phelps, Rardin, Ruiz, Sawyer, Tietze, Trimmer, Ward.

Present but not voting: None.

Absent or not voting: Ballard, Winn, Yoder.

The substitute bill passed, as amended.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Feuerborn in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Feuerborn, Committee of the Whole report, as follows, was adopted: Recommended that **SB 5** be passed.

Committee report to **HB 2319** be adopted; and the bill be passed as amended.

Committee report to **HB 2354** be adopted; also, on motion of Rep. Huebert to amend, the motion did not prevail, and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2008** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2008," as follows:

"Substitute for HOUSE BILL No. 2008

By Committee on Education

"AN ACT concerning epinephrine; relating to the administration thereof; authorizing the maintenance of epinephrine kits; amending K.S.A. 2008 Supp. 65-2872 and repealing the existing section.;"

and the substitute bill be passed.

(**Sub. HB 2008** was thereupon introduced and read by title.)

Committee on **Financial Institutions** recommends **SB 240** be passed.

Committee on **Financial Institutions** recommends **SB 163** be amended on page 5, in line 8, by striking "if applicable,;" in line 10, following "act" by inserting ", unless otherwise exempted from such act,;" and the bill be passed as amended.

Committee on **Higher Education** recommends **SB 131** 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 **Judiciary** recommends **SB 34** be amended on page 1, following the enacting clause by inserting the following:

"New Section 1. (a) Except as otherwise provided by this section, the information contained in responses to wage and salary surveys conducted by the director of personnel services to provide wage and salary information about jobs in other public and private employment under K.S.A. 75-2938, and amendments thereto, shall be confidential and shall not be subject to disclosure under the open records act, K.S.A. 45-215 et seq., and amendments thereto, or any other statute. The information contained in responses to such wage and salary surveys shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action. The confidentiality prescribed by this section is not subject to expiration pursuant to K.S.A. 45-229, and amendments thereto, or any other statute.

(b) The information contained in such responses to wage and salary surveys conducted by the director of personnel services to provide wage and salary information about jobs in other public and private employment under K.S.A. 75-2938, and amendments thereto, shall be disclosed upon written request if no person or entity can be identified in the information to be disclosed as determined by the director of personnel services.;"

And by renumbering the remaining sections accordingly;

On page 4, in line 14, by striking "and 2007" and inserting ", 2007 and 2008"; in line 15, by striking "2012" and inserting "2014"; in line 16, preceding "8-1324" by inserting "8-255c,;" also in line 16, following "12-2001" by inserting ", 12-5332, 17-12a607, 38-1008, 38-2209"; in line 17, preceding "65-3239" by inserting "subsections (a)(44), (45), (46) and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243,;" also in line 17, by striking "and" and inserting a comma; in line 18, preceding the period by inserting "74-50,184, 74-8134, 74-99b06 and 82a-2210"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 70** be amended on page 4, after line 23, by inserting the following:

“New Sec. 2. (a) The income standard established in section 1, and amendments thereto, does not create a presumption or implication that a trustee who distributes less than 3% or more than 5% is breaching a trustee’s fiduciary duty to a beneficiary.

(b) This section shall be part of and supplemental to the uniform principal and income act (1997).”;

And by renumbering the remaining section accordingly; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 37** be amended on page 1, by striking all in lines 28 through 32;

And by relettering the remaining subsections accordingly;

Also on page 1, following line 36, by inserting the following:

“New Sec. 3. (a) It shall be unlawful for any person to operate a work-site utility vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

(c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.”;

On page 4, in line 12, by striking “48” and inserting “50”; also in line 12, by striking “1,000” and inserting “1,500”; in line 13, by striking “low-pressure” and inserting “non-highway”; in line 14, by striking “low-pressure” and inserting “nonhighway”; in line 16, by striking “12” and inserting “14”; also in line 16, by striking all following “less”; by striking all in line 17; in line 18, by striking all preceding the period;

On page 5, in line 20, by striking “144” and inserting “160”; following line 34, by inserting the following:

“(5) work-site utility vehicle.”;

And by renumbering the remaining subsections accordingly;

On page 6, following line 30, by inserting the following:

“Sec. 6. K.S.A. 2008 Supp. 8-1402a is hereby amended to read as follows: 8-1402a. “All-terrain vehicle” means any motorized nonhighway vehicle ~~48~~ 50 inches or less in width, having a dry weight of ~~1,000~~ 1,500 pounds or less, traveling on three or more ~~low-pressure nonhighway~~ tires, having a seat designed to be straddled by the operator. As used in this section, “~~low-pressure nonhighway~~ tire” means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of ~~12~~ 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.”;

Also on page 6, following line 36, by inserting the following:

“Sec. 8. K.S.A. 2008 Supp. 8-1494 is hereby amended to read as follows: 8-1494. “Micro utility truck” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than ~~144~~ 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. “Micro utility truck” does not include a work-site utility vehicle.”;

And by renumbering the remaining sections accordingly;

On page 10, following line 26, by inserting the following:

“Unlawful operation of work-site utility vehicle section 2 \$60”;

On page 13, in line 28, by striking “8-1486” and inserting “8-1402a, 8-1486, 8-1494”;

In the title, in line 10, by striking “golf carts” and inserting “the regulation of certain vehicles”; in line 11, by striking “8-1486” and inserting “8-1402a, 8-1486, 8-1494”; 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 bill was thereupon introduced and read by title:

HB 2381. An act concerning docket fees; relating to the judicial branch nonjudicial salary adjustment fund; amending K.S.A. 2008 Supp. 8-2107, 8-2110, 20-1a04, 20-1a15, 20-367, 23-108a, 28-170, 28-172a, 32-1049a, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections, by Committee on Appropriations.

REPORT ON ENGROSSED BILLS

Sub. HB 2029; HB 2259; Sub. HB 2320 reported correctly engrossed March 11, 2009.

On motion of Rep. Merrick, the House adjourned until 10:30 a.m., Friday, March 13, 2009.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

