

Journal of the House

THIRTY-THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, February 26, 2010, 8:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.
The roll was called with 117 members present.
Rep. Johnson was excused on verified illness.
Reps. Aurand, Brunk, Davis, George, Peterson, Schwab and Yoder were excused on excused absence by the Speaker.
Present later: Rep. Davis.
Reps. Grange, Huebert and D. Svaty were excused later in the day on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Don Bird, pastor, Overland Park Antioch Church of the Nazarene:

Father in heaven, it is with grateful hearts that we pause, if only for a few, short moments, to humbly bow our hearts before you. You have blessed us once again with a new day to live and honor you in our work. Lord, You are good! And You are the source of all good things.

In our weakness, You lend us your strength. In our pain, You surround us with your comfort. In our sadness, You bring us joy. In our distress, You give us peace. In our despair, You bring us hope.

You show mercy and compassion when we don't deserve it. You extend forgiveness when we need it. Just as rain refreshes the earth, You shower us with your steadfast love. You bless us with the gift of life itself.

On this day, may You give to these men and women, our public servants, strength of body to meet the challenges of the day, wisdom of mind to make thoughtful decisions, and generosity of heart to share with others what they have freely been given.

For it is in giving that we receive, it is in pardoning that we are pardoned, and it is in dying that we are born to eternal life. (From the prayer of St. Francis of Assisi)

Yours, Oh Lord, is the kingdom, and the power, and the glory, forever.
Amen

The Pledge of Allegiance was led by Rep. Myers.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

HOUSE CONCURRENT RESOLUTION No. 5034—

By Committee on Aging and Long Term Care

A CONCURRENT RESOLUTION remembering Bryce Miller.

WHEREAS, Bryce Miller, who passed away in March of 2009, was dedicated to the advancement of mental health care for all Kansans, and was instrumental in introducing

legislation that would begin to address the mental health treatment of seniors with depression and other diseases; and

WHEREAS, Mr. Miller served as a board member of Valeo Behavioral Health Care in Topeka for many years, and worked to promote mental health screenings and treatment for individuals in Topeka and the surrounding communities; and

WHEREAS, Mr. Miller was the driving force behind the completion of two monuments listing the names of 1,157 people who, largely because of the stigma associated with mental illness, were forgotten and buried in unmarked graves at the Topeka State Hospital cemetery; and

WHEREAS, Mr. Miller was instrumental in arranging the first ever Mental Health and Seniors presentation at the National Alliance on Mental Illness; and

WHEREAS, Mr. Miller was the primary force in bringing two major Mental Health and Aging Summits to the state of Kansas, and arranged for Kansas to be one of only three nationwide focus group sites for the Older Adult Consumer Alliance; and

WHEREAS, Mr. Miller's strength in living with his own mental illness and its manifestations in the public eye helped give normalcy to the condition, and challenged Kansans to understand that those struggling with mental health issues need the same access to treatment, medication, support and recovery as those dealing with physical illness: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we honor the memory of Bryce Miller, and commend his efforts and accomplishments in the advancement of mental health care for Kansans.

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this concurrent resolution to Frances Miller, 2548 SW Belle, Topeka, Kansas, 66614.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Federal and State Affairs: **HB 2710, HB 2711.**

Insurance: **HB 2715.**

Judiciary: **HB 2712, HB 2713, HB 2714.**

COMMUNICATIONS FROM STATE OFFICERS

From Helen Pedigo, Executive Director, Kansas Sentencing Commission, pursuant to K.S.A. 74-9101, 2010 Report to the Legislature.

From Catherine Domsch, Chairman, Kansas Commission on Rural Policy, pursuant to K.S.A. 74-99e01, Annual Report to the Legislature.

From Howard Schwartz, Judicial Administrator, Supreme Court of Kansas, pursuant to K.S.A. 8-1008, 2009 Annual Report of the Statement of Alcohol Drug Safety Action Program.

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

MESSAGE FROM THE SENATE

Announcing passage of **SB 460; Sub. SB 513; SB 532.**

Announcing passage of **HB 2411.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 460; Sub. SB 513; SB 532.

CONSENT CALENDAR

No objection was made to **HB 2649** appearing on the Consent Calendar for the first day.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report recommending a substitute bill to **Sub. HB 2538** be adopted; also, on motion of Rep. Kleeb be amended on page 3, in line 2, by striking all after “employees”; in lines 3, by striking “dards established” and inserting “the county median wage as confirmed”; in line 40, by striking “a” and inserting “an unrelated”;

On page 4, in lines 20, 22, 24 and 28, by striking “average” and inserting “median”;

On page 5, in lines 2, 4, 6 and 8, by striking “average” and inserting “median”;

On page 6, by striking all in lines 34 through 36; in line 37, by striking “(h)” and inserting “(g)”;

Also, on motion of Rep. Menghini, **Sub. HB 2538** be amended on page 6, following line 38, by inserting the following:

“New Sec. 5. The legislative post auditor shall conduct an audit of the promoting employment across Kansas act under this section in accordance with the provisions of the legislative post audit act. The audit shall focus on the effectiveness of the act in fostering economic growth, creating new jobs and promoting the location of business facilities, other operations and jobs in Kansas. Such audit shall be submitted to the legislature at the beginning of the regular session of the legislature held during 2015.”;

And by renumbering the remaining sections accordingly;

Also, on motion of Rep. Frownfelter to amend **Sub. HB 2538**, the motion was withdrawn.

Also, roll call was demanded on motion of Rep. Furtado to amend **HB 2538** on page 4, in lines 21, 23 and 25, by striking “median” and inserting “average”;

On page 5, in lines 3, 5, 7 and 9, by striking “median” and inserting “average”;

On roll call, the vote was: Yeas 47; Nays 69; Present but not voting: 0; Absent or not voting: 9.

Yeas: Ballard, Barnes, Benlon, T. Brown, Burroughs, Carlin, Crow, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Kuether, Lane, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Neighbor, Otto, Palmer, Pauls, Phelps, Rardin, Ruiz, Slattery, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn.

Nays: Bethell, Bollier, Bowers, Brookens, A. Brown, Burgess, Carlson, Colloton, Craft, Crum, DeGraaf, Donohoe, Faber, Fund, Goico, Gordon, Grange, Hayzlett, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Mast, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O'Brien, O'Neal, Olson, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Spalding, Suellentrop, Swanson, Tافanelli, Vickrey, Whitham, B. Wolf, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, Davis, George, Johnson, Peterson, Schwab, D. Svaty, Yoder.

The motion of Rep. Furtado did not prevail; also rose and reported progress.

On motion of Rep. Merrick, the House recessed until 11:30 a.m.

LATE MORNING SESSION

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

PERSONAL PRIVILEGE

There being no objection, the following remarks of Reps. McCray-Miller and Winn are spread upon the journal:

Rep. McCray-Miller: The Kansas African American Caucus would like to recognize Black History Month by sharing just a little history with the body. We would like to have the body sing with us the Negro National Anthem, “Lift Every Voice and Sing,” recognizing that “our” history is just that, “our” history. Representative, Dr./Prof. Winn will now share some additional history regarding the song.

Rep. Winn: As we acknowledge Black History month our contribution is also to share with you the lyrics and the history of the song “Lift Every Voice and Sing.”

“Lift Every Voice and Sing” was publicly performed first as a poem as part of a celebration of President Lincoln’s birthday on February 12, 1900 by 500 school children at the segregated Stanton School in Jacksonville, Florida. Its principal, James Weldon Johnson, wrote the words to introduce the honored guest Booker T. Washington.

The poem was later set to music by Mr. Johnson’s brother, John, in 1905. Singing this song quickly became a way for African Americans to demonstrate their patriotism and hope for the future. In calling for earth and heaven to “ring with the harmonies of Liberty,” they could speak out subtly against racism and Jim Crow laws—and especially the huge number of lynchings accompanying the rise of the Ku Klux Klan at the turn of the century. In 1919, the NAACP adopted the song as “The Negro National Anthem.” By the 1920s, copies of “Lift Every Voice and Sing” could be found in black churches across the country, often pasted into the hymnals.

During and after the American Civil Rights Movement, the song experienced a rebirth, and by the 1970s was often sung immediately after “The Star Spangled Banner” at public events and performances across the United States where the event had a significant African-American population.

In 1990 singer Melba Moore released a modern rendition of the song. Partly because of the success of this recording, “Lift Every Voice and Sing” was entered into the *Congressional Record* by Delegate Walter Fauntroy (D-DC) as the official African American National Hymn.

Needless to say, when the Johnson brothers, James Weldon and Rosamond, wrote the song, “Lift Every Voice and Sing” in 1900 to honor President Lincoln’s birthday, they certainly had no idea how important their creation would be to future generations of African Americans and to all Americans as well.

Rep. Ballard led the House in the singing of the first verse of “Lift Every Voice and Sing,” which follows:

Lift every voice and sing, till earth and Heaven ring,
 Ring with the harmonies of liberty;
 Let our rejoicing rise, high as the listening skies,
 Let it resound loud as the rolling sea.
 Sing a song full of the faith that the dark past has taught us,
 Sing a song full of the hope that the present has brought us;
 Facing the rising sun of our new day begun,
 Let us march on till victory is won.

CHANGE OF REFERENCE

Speaker O’Neal announced the withdrawal of **HB 2474**, **HB 2546** from Committee on Federal and State Affairs and rereferral to Committee on Insurance.

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

COMMITTEE OF THE WHOLE

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

Recommended that discussion resume on **Sub. HB 2538**; also, on motion of Rep. Hawk to amend, the motion did not prevail. Also, on motion of Rep. Frownfelter to amend, the motion did not prevail. Also, on motion of Rep. Menghini to amend, the motion did not prevail. Also, on motion of Rep. Rardin to amend, the motion did not prevail.

Also, on motion of Rep. Frownfelter, **Sub. HB 2538** be amended on page 6, following line 38, by inserting the following:

“New Sec. 5. No person who was a member of the legislature on the effective date of this act may avail themselves of the benefits under the provisions of K.S.A. 2009 Supp. 74-50,210 through 74-50,216, and amendments thereto, until after July 1, 2015.”;

And by renumbering the remaining sections accordingly;

Also, roll call was demanded on motion of Rep. Tietze to amend **Sub. HB 2538** on page 5, after line 23, by inserting:

“(f) A qualified employer or contractor of a qualified employer when hiring persons to work on public works projects and any project financed by state funds, tax increment financing or state tax and revenue bonds shall employ available Kansas resident workers before hiring non-Kansas workers.”;

On roll call, the vote was: Yeas 53; Nays 59; Present but not voting: 0; Absent or not voting: 13.

Yeas: Ballard, Barnes, Benlon, T. Brown, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Kuether, Lane, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Neighbor, Palmer, Patton, Pauls, Peck, Phelps, Quigley, Rardin, Ruiz, Slattery, Spalding, Swanson, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn.

Nays: Bethell, Bollier, Bowers, Brookens, A. Brown, Burgess, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, Fund, Gordon, Hayzlett, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Mast, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Pottorff, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Suellentrop, Vickrey, Whitham, B. Wolf, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, George, Goico, Grange, Huebert, Johnson, Peterson, Roth, Schwab, D. Svaty, Tafanelli, Yoder.

The motion of Rep. Tietze did not prevail.

Also, roll call was demanded on motion to recommend **Sub. HB 2538** for passage

On roll call, the vote was: Yeas 84; Nays 27; Present but not voting: 0; Absent or not voting: 14.

Yeas: Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, Burgess, Carlson, Colloton, Craft, Crum, DeGraaf, Donohoe, Faber, Feuerborn, Fund, Furtado, D. Gatewood, Gordon, Goyle, Grant, Hawk, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Light, Maloney, Mast, McLeland, Meier, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, Swanson, Talia, Vickrey, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley.

Nays: Ballard, T. Brown, Burroughs, Carlin, Crow, Davis, Dillmore, Finney, Flaharty, Frownfelter, Garcia, S. Gatewood, Henderson, Kuether, Loganbill, Long, Lukert, Mah, McCray-Miller, Menghini, Phelps, Ruiz, Swenson, Tietze, Trimmer, Ward, Winn.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, George, Goico, Grange, Hill, Huebert, Johnson, Peterson, Roth, Schwab, D. Svaty, Tafanelli, Yoder.

The motion prevailed and **Sub. HB 2538** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Insurance** recommends **HB 2345** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2345,” as follows:

“Substitute for HOUSE BILL No. 2345

By Committee on Insurance

“AN ACT concerning insurance; relating to life insurance companies; amending K.S.A. 40-401 and repealing the existing section.”; and the substitute bill be passed.

(**Sub. HB 2345** was thereupon introduced and read by title.)

Committee on **Insurance** recommends **HB 2390** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2390,” as follows:

“Substitute for HOUSE BILL No. 2390
By Committee on Insurance

“AN ACT concerning insurance; relating to the use of credit information; amending K.S.A. 2009 Supp. 40-5103 and 40-5104 and repealing the existing sections.”; and the substitute bill be passed.

(**Sub. HB 2390** was thereupon introduced and read by title.)

Committee on **Local Government** recommends **SB 463** 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 **Local Government** recommends **HB 2698** be amended on page 1, in line 29, by striking the period and inserting a comma; in line 30, by striking “Such” and inserting “such”; and the bill be passed as amended.

REPORT OF STANDING COMMITTEE

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

Request No. 48, by Representative Peck, congratulating Loretta Swafford on her 70th birthday;

Request No. 49, by Representative Pottorff, congratulating Fruhauf Uniforms, Inc. on their 100th Anniversary;

Request No. 50, by Representatives Fund and Gatewood, congratulating Jon Michael Cloud for winning the 10-11 age category, Kansas Elks Hoops Contest, February 13, 2010;

Request No. 51, by Representative Trimmer, congratulating Mary Elizabeth Sweeney on her 100th birthday;

Request No. 52, by Representative Olson, congratulating John Loeffelbein for his Entrepreneur Leadership in Startup Businesses;

Request No. 53, by Representative Olson, congratulating J & J Operating Company for their continuing advancements in new oil development in Douglas County;

Request No. 54, by Representative Trimmer, honoring and in memory of Leon B. Cronford for service as an Atomic Veteran;

Request No. 55, by Representative Trimmer, honoring Major Stuart H. Haag congratulating him for his service as an Atomic Veteran;

Request No. 56, by Representative Bowers, honoring Clifton-Clyde High School for being named 2010 Kansas Green School of the Year;

Request No. 57, by Representative Bowers, congratulating Dalton Snyder for winning the 2010 Cloud County Spelling Bee;

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

On motion of Rep. Merrick, 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 bill was thereupon introduced and read by title:

HB 2716, An act concerning the Kansas public employees retirement system; relating to computation of benefits for certain state officers and employees placed on furlough; amending K.S.A. 74-49,115 and repealing the existing section, by Select Committee on KPERS.

CHANGE OF REFERENCE

Speaker O’Neal announced the withdrawal of **HB 2428** from Committee on Federal and State Affairs and rereferral to Committee on Vision 2020.

Also, the withdrawal of **Sub. HB 2430** from Committee on Federal and State Affairs and rereferral to Committee on Corrections and Juvenile Justice..

REPORT ON ENROLLED BILLS

HB 2195; S. Sub. for HB 2222 reported correctly enrolled, properly signed and presented to the governor on February 26, 2010.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Monday, March 1, 2010.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

