

# Journal of the House

FIFTY-FIFTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, April 28, 2011, 10:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Vickrey in the chair.

The roll was called with 122 members present.

Reps. Fund, Schwab and Weber were excused on verified illness.

Present later: Rep. Schwab.

Prayer by guest chaplain, the Rev. David DeShazo, associate pastor, Northland Christian Church, Topeka:

Lord of all creation,

I give You praise, with a thankful heart, for the countless good things You have granted to us as Kansans, from the founding of our statehood to this moments.

We are here before You today as those who are frequently given to solving this life's challenges by our own resources...our own strength, our own wisdom, and our own convictions. To be honest and truthful before You would require us to own responsibility for the condition of our great state and these many states that have united together, a condition that is seemingly exhausting our resources, both materially and intellectually, but not spiritually.

Through your Truth and Love, for countless generations, You have brought not only a voice, but you have used Your people to bring freedom to those politically oppressed, to those racially subjugated, to those financially lacking, to those in need of food, and to those who have been given Your gift of life but refused the opportunity to live. Father, bring a fresh strength and boldness to any and all who would be Your voice in this generation of Kansans.

My prayer to You this morning, Father, is that Your Spirit search the hearts and minds of each of us gathered here this morning. If we are found lacking of conviction, supply it. If we are found wanting of passion, bring it. If we are found weak to the temptations that money and power offer, enable us to overcome them. If we are found willing to be Your voice, equip us for every good word and work we can deliver.

In doing so, would You cause us to accept Your Truth and Love in such a way that leads each to choose what is good and acceptable

to You, morally, politically and financially.

May You be honored by the choices and decisions made in this house, this day, and, if you are not honored by them, may your judgments deal with us accordingly.

In Jesus Christ's name I pray, Amen.

The Pledge of Allegiance was led by Rep. Scapa.

Kansas Trivia Question – In 1997 University of Kansas physicist John Ralston received international attention for observations that the universe might have what?  
Answer: Directionality or an axis.

### COMMUNICATIONS FROM STATE OFFICERS

From Andrew Allison, Ph.D., Acting Executive Director, and William Reed, M.D., KHPA Board Chairman, pursuant to K.S.A. 75-7405, 2011 Annual Legislative Report of the Kansas Health Policy Authority.

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

### MESSAGE FROM THE SENATE

The Senate concurs in House amendments to **H. Sub. for SB 36**, and requests return of the bill.

The Senate concurs in House amendments to **H. Sub. for SB 136**, and requests return of the bill.

The Senate adopts conference committee report on **H. Sub. for SB 23**.

The Senate adopts conference committee report on **SB 67**.

The Senate adopts conference committee report on **SB 123**.

The Senate adopts conference committee report on **H. Sub. for SB 213**.

The Senate adopts conference committee report on **H. Sub. for SB 214**.

The Senate adopts conference committee report to agree to disagree on **SB 77**, and has appointed Senators Wagle, Lynn and Holland as second conferees on the part of the Senate.

The Senate adopts conference committee report to agree to disagree on **SB 93**, and has appointed Senators Brungardt, Reitz and Faust-Goudeau as second conferees on the part of the Senate.

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Grange in the chair.

### COMMITTEE OF THE WHOLE

On motion of Rep. Grange, committee of the whole report, as follows, was adopted:

Recommended that **H. Sub. for SB 25** be passed over and retain a place on the calendar.

Committee report to **HR 6015** be adopted; also, on motion of Rep. Otto to amend, Rep. O' Neal requested a ruling on the amendment being germane to the bill and also that, in accordance with House Rule 1309, be ruled out of order. The Rules Chair stated

that the request to rule the amendment out of order takes precedence and the amendment was therefore ruled out of order.

Roll call was demanded on motion to recommend **HR 6015** favorably for adoption.

On roll call, the vote was: Yeas 63; Nays 59; Present but not voting: 1; Absent or not voting: 2.

Yeas: Arpke, Billinger, Boman, Bowers, Brown, Bruchman, Brunk, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Feuerborn, Garber, Goico, Gonzalez, Goodman, Grange, Gregory, Hayzlett, Hedke, Hildabrand, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Kelley, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Patton, Pauls, Peck, Peterson, Pottorff, Powell, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Seiwert, Shultz, Siegfried, Smith, Tyson, Vickrey, B. Wolf.

Nays: Alford, Aurand, Ballard, Bethell, Bollier, Burgess, Burroughs, Carlin, Colloton, Davis, Dillmore, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Gordon, Grant, Grosserode, Henderson, Henry, Hermanson, Hill, Hineman, Johnson, Kelly, Kerschen, Kiegerl, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Mosier, Moxley, Otto, Phelps, Prescott, Proehl, Roth, Ruiz, Schwab, Schwartz, Slattery, Sloan, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, K. Wolf, Wolfe Moore, Worley.

Present but not voting: Brookens.

Absent or not voting: Fund, Weber.

The motion prevailed, and **HR 6015** be adopted as amended.

## INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Siegfried, pursuant to House Rule 2311, **HR 6015** was advanced to Final Action on Bills and Concurrent Resolutions.

## FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HR 6015**, A RESOLUTION requiring that the Attorney General bring an action in quo warranto in a court of competent jurisdiction against the Kansas Racing and Gaming commission and its members, the Kansas Lottery Commission and its members and the Kansas Lottery Gaming Facility Review Board and its members and challenging the constitutionality of K.S.A. 2010 Supp. 74-8762(e) and such other claims as the Attorney General may deem warranted under the circumstances, was considered on final action.

On roll call, the vote was: Yeas 59; Nays 62; Present but not voting: 1; Absent or not voting: 3.

Yeas: Arpke, Billinger, Boman, Bowers, Brown, Bruchman, Brunk, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Grange, Gregory, Hayzlett, Hedke, Hildabrand, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Kelley, Kinzer, Kleeb, Knox, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Patton, Peck, Pottorff, Powell, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Seiwert, Shultz, Siegfried, Smith, Tyson, Vickrey, B. Wolf.

Nays: Alford, Ballard, Bethell, Bollier, Burgess, Burroughs, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood,

Gordon, Grant, Grosserode, Henderson, Henry, Hermanson, Hill, Hineman, Johnson, Kelly, Kerschen, Kiegerl, Kuether, Landwehr, Lane, Loganbill, Mah, McCray-Miller, Meier, Mosier, Moxley, Otto, Pauls, Peterson, Phelps, Prescott, Proehl, Roth, Ruiz, Schwab, Schwartz, Slattery, Sloan, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, K. Wolf, Wolfe Moore, Worley.

Present but not voting: Brookens.

Absent or not voting: Aurand, Fund, Weber.

The resolution was not adopted.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yes on **HR 6015**. I firmly believe the rule of law must be obeyed—not just when it is expedient but all of the time. While I am a strong supporter of economic growth, we must not sacrifice the enforcement of the law for development. Today the legislature is requesting the top law enforcement officer of the state to simply ensure that the Mulvane casino abides by the same state laws as other casinos in Kansas. — RON RYCKMAN, ROBERT MONTGOMERY

MR. SPEAKER: A famous French philosopher said, “America is great because America is good. If America ever ceases to be good, it will no longer be great.” It grieves me to see the day that the Kansas legislature has determined our state should no longer value the law. We now have state owned and operated gambling facilities and we are approving a contract where accusations of corruption are in question. I vote “yes” on **HR 6015** to ask for greater oversight. — PEGGY MAST, JIM HOWELL, TOM ARPKE, DENNIS HEDKE, JOSEPH SCAPA, KYLE HOFFMAN

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Davis, pursuant to House Rule 2303, to reconsider the previous action in not adopting **HR 6015** on Final Action, the motion did not prevail.

Upon unanimous consent, the House referred back to the order of business, Introduction of Bills and Concurrent Resolutions.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and concurrent resolution were thereupon introduced and read by title:

**HB 2408**, AN ACT concerning agritourism; transferring agritourism promotions from the department of commerce to the department of agriculture; amending K.S.A. 2010 Supp. 74-50,167 and 74-50,168 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 74-50,173, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. **HCR 5027**—

By Committee on Vision 2020

A CONCURRENT RESOLUTION to build awareness and momentum to establish an alliance to promote solar energy and solar electric cooperatives in Kansas.

WHEREAS, Greenhouse gas emission reductions are priorities for federal agencies as well as many scientists and Kansans; and

WHEREAS, Solar energy can help address America's electric energy requirements, create jobs and reduce greenhouse gases; and

WHEREAS, Promoting solar energy's potential in Kansas requires regulatory, institutional, financial and educational solutions to market barriers; and

WHEREAS, Solar energy is appropriate for distributive generation and can be integrated architecturally in new and retro-fitted buildings; and

WHEREAS, Solar energy is the renewable electricity generation system to produce electricity at peak demand times with the lowest emission footprint; and

WHEREAS, Solar energy systems on Kansas homes and businesses can create demand for products that result in manufacturing and other companies locating in Kansas, thereby improving the state's economic and job statuses; and

WHEREAS, Electric and other cooperatives have demonstrated the economic and political value of individual Kansans banding together to achieve common goals and benefits; and

WHEREAS, The Kansas Legislature has recognized and created opportunities for the creation of electric and other types of cooperatives; and

WHEREAS, Solar electric cooperatives may be a means by which individual Kansans can collaboratively and cost-effectively develop our state's renewable energy potential; and

WHEREAS, The nation's desire to transition to electric and other nontraditional forms of transportation will create greater demands to produce electricity in environmentally friendly ways; and

WHEREAS, Kansas and Kansans want to be leaders in the environmental, economic and energy sectors' development of renewable energy: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That we urge the people of Kansas to explore opportunities to reduce their electricity expenses and contribute to a more environmentally friendly electric system by learning about solar energy technologies and their ability to serve part of our electric needs; and

*Be it further resolved:* That Kansans should explore innovative ways of financing and integrating solar energy to meet the electric needs of individual Kansans and businesses; and

*Be it further resolved:* That the people of Kansas and state agencies are encouraged to learn more about solar energy's potential to help grow our state's economy; and

*Be it further resolved:* That the Secretary of State be directed to send an enrolled copy of this resolution to the Governor, the Kansas Press Association, the Kansas Association of Broadcasters and the Kansas Corporation Commission, who shall post the resolution on the Commission's website.

#### MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **HB 2044** and has appointed Senators Umbarger, Marshall and Kultala as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2049** and has appointed Senators V. Schmidt, Brungardt and Kelly as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2119** and has appointed Senators Teichman, Masterson, and A. Schmidt as second conferees on the part of the Senate.

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

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6023**—

By Representative D. Gatewood

A RESOLUTION congratulating and commending Columbus Unified High School for being named a 2011 MetLife Foundation-NASSP Breakthrough School.

WHEREAS, Columbus Unified High School of Columbus, Kansas, recently received recognition as a 2011 MetLife Foundation-NASSP Breakthrough School for its academic success; and

WHEREAS, Columbus Unified High School was one of only five high schools in the country to be named a Breakthrough School and was honored at the 2011 NASSP Conference, which was held in San Francisco, California, February 24 to 27, 2011; and

WHEREAS, Columbus Unified High School, and the other four high schools and five middle level schools honorees, will receive a \$5,000 grant and be featured in the National Association of Secondary School Principals' monthly magazine, *Principal Leadership*; and

WHEREAS, The MetLife Foundation-NASSP Breakthrough Schools program was established in 2007 and is funded through a generous grant provided by MetLife Foundation. The goal of the project is to identify, recognize and showcase middle level and high schools that serve large numbers of students living in poverty and are high achieving or dramatically improving student achievement; and

WHEREAS, Nominated schools must demonstrate continuous growth on state assessments over time, including graduation rate for high schools, specific efforts towards reducing the achievement gap and 40% or more students eligible for free or reduced price meals. Additional success indicators include equity of student participation in challenging courses, academic and career focused personal learning plans for all students, school community connections and leadership development and mentoring; and

WHEREAS, Columbus Unified High School was selected for its documented success and for implementing strategies aligned with the three core areas of NASSP's Breaking Ranks framework for middle level and high schools that have led to improved student achievement. These three core areas are: (1) Collaborate leadership: Professional learning communities, shared leadership and student and staff leadership development; (2) Personalization: Attention to all students, mentoring and school/community connections; and (3) Curriculum, instruction and assessment: Access to rigorous coursework for all students, differentiated instruction with multiple assessments, data-based decision making and opportunities for career development; and

WHEREAS, The superintendent of Columbus USD 493 is David Carriger. The principal of Columbus Unified High School is Steve Jameson. The interim principal and assistant principal of Columbus Unified High School is Tony Shearburn. The interim assistant principal of Columbus Unified High School is Dan Grundy: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we congratulate and commend the administration, teachers and staff of Columbus Unified High School for being recognized as a 2011 MetLife Foundation-NASSP Breakthrough School and for their diligent work in making gains in academic achievement by providing rigorous instruction and personalizing their school to meet the needs of each and every student. We wish them and their students continued success; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives shall send five enrolled copies of this resolution to Representative Doug Gatewood.

## REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **Substitute for SB 111** be amended by substituting a new bill to be designated as "House Substitute for Substitute for Senate Bill No. 111," as follows:

"HOUSE Substitute for Substitute for SENATE BILL NO. 111

By Committee on Appropriations

"AN ACT concerning school districts; relating to the use of moneys by school districts; relating to special education state aid; amending K.S.A. 72-3607, 72-6420, 72-6423 and 72-8237 and K.S.A. 2010 Supp. 72-965, 72-978, 72-3715, 72-6414a, 72-6414b, 72-6421, 72-6426, 72-8250, 72-9509 and 72-9609 and repealing the existing sections."; and the substitute bill be passed.

**(H. Sub. for Sub. SB 111** was thereupon introduced and read by title.)

On motion of Rep. Siegfried, the House recessed until 2:00 p.m.

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## AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Vickrey in the chair.

## PERSONAL PRIVILEGE

Speaker O'Neal announced that Rep. Rocky Fund passed away earlier in the day and, on behalf of the members of the House of Representatives, expressed his condolences to Rep. Fund's family.

## MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Powell, the House concurred in Senate amendments to **S. Sub. for HB 2133**, AN ACT concerning state funds; relating to moneys recovered from water litigation; relating to funding for local health departments.; amending K.S.A. 65-242, 82a-1801 and 82a-1802 and K.S.A. 2010 Supp. 82a-1803, 82a-1804 and 82a-1805 and repealing the existing sections.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 107; Nays 9; Present but not voting: 0; Absent or not voting: 9.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bollier, Bowers, Brookens, Brown, Bruchman, Burgess, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum,

Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Finney, Flaharty, Frownfelter, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Lane, Loganbill, Mah, Mast, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Trimmer, Tyson, Vickrey, Victors, Ward, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Burroughs, Feuerborn, D. Gatewood, S. Gatewood, Grant, Kuether, McCray-Miller, Pauls, Tietze.

Present but not voting: None.

Absent or not voting: Aurand, Boman, Brunk, Fund, Landwehr, Moxley, Peterson, Schwab, Weber.

On motion of Rep. Powell, the House concurred in Senate amendments to **HB 2282**, AN ACT concerning lodging inspections; relating to lodging inspection fees; amending K.S.A. 2010 Supp. 36-502, 36-518 and 74-591 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 36-512.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 85; Nays 32; Present but not voting: 0; Absent or not voting: 8.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bowers, Brookens, Bruchman, Burgess, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Denning, Dillmore, Donohoe, Fawcett, Finney, Flaharty, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Johnson, Kelly, Kerschen, Kiegerl, Kleeb, Knox, Lane, McCray-Miller, Meier, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Phelps, Pottorff, Powell, Prescott, Proehl, Roth, Rubin, Ryckman, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Smith, Spalding, Suellentrop, Swanson, Trimmer, Vickrey, Victors, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Bollier, Brown, Burroughs, Davis, DeGraaf, Feuerborn, Frownfelter, D. Gatewood, S. Gatewood, Grosserode, Hildabrand, Howell, Huebert, Kelley, Kinzer, Kuether, Loganbill, Mah, Mast, McLeland, Meigs, Patton, Pauls, Peck, Rhoades, Ruiz, Scapa, Slattery, Tietze, Tyson, Ward, Wetta.

Present but not voting: None.

Absent or not voting: Aurand, Boman, Brunk, Fund, Landwehr, Peterson, Schwab, Weber.

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Grange in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that **SB 21** be passed over and retain a place on the calendar.



**HR 6017** be adopted.

On motion of Rep. Siegfried, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 25; SB 21**.

Committee report recommending a substitute bill to **H. Sub. SB 25** be adopted; also, on motion of Rep. Prescott to amend, the motion did not prevail. Also, on motion of Rep. Fawcett to amend, the motion did not prevail; and **H. Sub. for SB 25** be passed.

## INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

HOUSE RESOLUTION No. **HR 6024**—

By Committee on Energy and Utilities

A RESOLUTION urging adoption of federal regulations or policies permitting Kansas to regulate the underground storage of natural gas in interstate transportation.

WHEREAS, Due to a recent adverse federal court ruling that held 49 U.S.C. § 60104(c) precludes a state authority from adopting or enforcing safety standards for interstate pipeline facilities or pipelines transporting gas in interstate transportation, the state of Kansas may not regulate the safety of underground storage of gas in interstate transportation; and

WHEREAS, It is vital that the Federal Energy Regulatory Commission and the United States Department of Transportation or the United States Congress allow Kansas to provide the necessary oversight to ensure the safe operation of natural gas storage within the state of Kansas; and

WHEREAS, Several significant incidents have occurred where natural gas or hazardous liquids have escaped from storage and resulted in loss of life and property; and

WHEREAS, The safe underground storage of natural gas within an interstate transportation system is a vital process to ensure efficient development and production of Kansas natural gas resources; and

WHEREAS, The growth of the production, transportation and storage of natural gas is an important element in the preservation and creation of jobs in Kansas; and

WHEREAS, For decades, natural gas transportation companies have integrated underground natural gas storage into their interstate pipeline operations to increase deliverability and decrease overall costs; and

WHEREAS, The regulation of underground natural gas storage wells has been performed by state agencies and the Federal Energy Regulatory Commission to varying degrees, but not by the United States Department of Transportation; and

WHEREAS, Through Advisory Bulletin ADB-97-04, and other correspondence, the Pipeline and Hazardous Materials Safety Administration (PHMSA) or its predecessor agency has noted gas storage facilities are not covered by PHMSA pipeline safety regulations; and

WHEREAS, The PHMSA has urged state regulators to develop state-sponsored safety programs of wellbores and underground facilities to make new federal regulations unnecessary; and

WHEREAS, Kansas, as well as many other states, has adopted rules and regulations

regarding the safe operation of wellbores and underground gas and liquid storage facilities; and

WHEREAS, The State Corporation Commission has the experience and technical ability to regulate the safety of underground storage of gas; and

WHEREAS, It is imperative that the citizens of the state of Kansas be protected from accidents or mishaps at facilities used for the underground storage of natural gas and that both interstate and intrastate gas storage companies be regulated to assure that facilities are operated in a safe manner: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we urge the Federal Energy Regulatory Commission, U.S. Department of Transportation and the Kansas Corporation Commission to adopt legislation or policies that would provide Kansas, and other states, administrative jurisdiction to assure the safe operation of wellbores associated with the underground storage of natural gas that is in interstate transportation; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the United States Department of Transportation Secretary, the Commissioners of the Federal Energy Regulatory Commission, members of the National Association of Regulatory Utility Commissioners, members of the Kansas Congressional Delegation, the Chairman of the United States House of Representatives Committee on Transportation and Infrastructure, the Governor of Kansas and the Executive Director of the Interstate Oil and Gas Compact Commission.

HOUSE RESOLUTION No. **HR 6025**—

By Committee on Energy and Utilities

A RESOLUTION urging the United States Congress to preserve the primacy of the Kansas Corporation Commission to regulate hydraulic fracturing in compliance with state regulations and not to enact any future legislation that would remove this primacy.

WHEREAS, The Safe Drinking Water Act (SDWA) was originally passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply; and

WHEREAS, Since the 1974 enactment of the Safe Drinking Water Act, the Environmental Protection Agency (EPA) has never interpreted hydraulic fracturing as constituting "underground injection" within the definitions of the SDWA; and

WHEREAS, The United States 11th Circuit Court of Appeals ruled contrary to the argument of the EPA that hydraulic fracturing constituted "underground injection" under the SDWA, *Legal Environmental Assistance Foundation v. United States Environmental Protection Agency*, 118 F.3d 1467 (11th Cir. 1997); and

WHEREAS, In 2004, the EPA published a final report summarizing a study that evaluated the potential threat to underground drinking water sources from hydraulic fracturing of coal bed methane production wells and the EPA concluded that "the injection of hydraulic fracturing fluids into coal bed methane wells poses minimal threat" to underground sources of drinking water and that "additional or further study is not warranted at this time"; and

WHEREAS, Any federal rule-making concerning the states' sovereign right in

permitting the quantity of water used for hydraulic fracturing would be outside the EPA's purview; and

WHEREAS, In the Energy Policy Act of 2005, the United States Congress explicitly exempted hydraulic fracturing from the provisions of the Safe Drinking Water Act; and

WHEREAS, Hydraulic fracturing is a proven technology with a long history of environmentally safe use in the completion of oil and gas wells; and

WHEREAS, The oil and gas producing states regulate hydraulic fracturing as a component of their regulatory programs for the drilling, completion, operation and plugging of oil and gas wells; and

WHEREAS, The reservoirs that produce oil and gas are highly variable geologically and separated geographically across the oil and gas producing states such that state regulatory agencies are best suited by local expertise and experience to effectively regulate hydraulic fracturing; and

WHEREAS, State regulatory agencies are the most appropriate regulatory bodies to provide oversight and protection of hydrologically and environmentally sensitive localities as they relate to hydraulic fracturing; and

WHEREAS, The SDWA was never intended to grant the federal government authority to regulate oil and gas drilling and production operations, such as "hydraulic fracturing," under the Underground Injection Control program; and

WHEREAS, The regulation of hydraulic fracturing under the Federal Safe Drinking Water Act would add burdensome and unnecessary regulatory requirements to the drilling and completion of oil and gas wells, thereby increasing costs of producing domestic natural gas resources without any ancillary benefit to public health, safety or the environment; and

WHEREAS, The increased cost of producing domestic natural gas resources will reduce domestic supplies of oil and natural gas, increase utility prices and other costs to consumers, reduce tax and royalty revenues for local, state and federal governments and increase the nation's dependence on foreign energy imports; and

WHEREAS, Domestic production of oil and natural gas will ensure that the United States continues on the path to energy security; and

WHEREAS, The Interstate Oil and Gas Compact Commission (IOGCC) conducted a survey of oil and gas producing states and set forth its opposition to federal regulation of hydraulic fracturing under the underground injection control program in Resolution 09.011, dated January 7, 2009, "Urging Congress Not to Remove Exemption of Hydraulic Fracturing from Provisions of the Safe Drinking Water Act"; and

WHEREAS, The states' public utility commissioners represented by the National Association of Regulatory Utility Commissioners adopted a similar resolution in July 2009: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we support continued jurisdiction of the states to conserve and properly regulate oil and gas production in their unique geological and geographical circumstances; and

*Be it further resolved:* That we urge the United States Congress to take such actions as are necessary to preserve and maintain the exemption from the Safe Drinking Water Act for hydraulic fracturing; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives shall provide an enrolled copy of this resolution to the Speaker of the United States House of Representatives, the Majority Leader of the United States House of Representatives, the

Minority Leader of the United States House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate and to each member of the Kansas Congressional Delegation.

HOUSE RESOLUTION No. **HR 6026**—

By Representatives Davis, Burroughs, Phelps, Ballard, Winn and Tietze

A RESOLUTION condemning the remarks of Representative Virgil Peck regarding undocumented immigrants.

WHEREAS, Representative Virgil Peck made national and international headlines on March 14, 2011. During a House Appropriations committee meeting, he suggested that the state shoot undocumented immigrants from helicopters in the same manner that is used to exterminate the state's feral hog population; and

WHEREAS, When approached about his comment, Representative Virgil Peck unapologetically responded that he was “just joking,” and that he was “just speaking like a southeast Kansas person”; and

WHEREAS, Representative Virgil Peck’s comment has garnered criticism in Kansas, nationally and around the world. In response, he issued a one-line statement on March 15, 2011, which stated his comments were “regrettable”; and

WHEREAS, To say that these comments were simply “regrettable” in a one-line statement does not display the remorse that is necessary to remedy this wrong; and

WHEREAS, The Legislature condemns Representative Virgil Peck’s comments for the following reasons:

1. Representative Peck has the right to free speech, and this House stands in full support of that right. However, that right does not include the advocacy of gratuitous deadly violence against other human beings;

2. Representative Virgil Peck’s words cast a negative light on this respected institution, the Southeast Kansas region and the entire State of Kansas; and

3. Elected officials must be held to a higher standard. The Kansas Legislature must send a clear message that uncivil discourse is not condoned in this body; and

WHEREAS, Human immigration is an important part of our past and our future. Endorsing violent acts against any individual or group cannot be tacitly or explicitly condoned. Violent acts cannot be condoned by those who hold leadership positions, either by their words or by their silence, in a civil society. Furthermore, endorsements of violent acts should not be published where they could appear to legitimize such acts: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That Kansas must affirm its reputation as a welcoming and tolerant state. Moreover, the Kansas Legislature must affirm its commitment to respectful communication on all matters, no matter what our political opinions.

On motion of Rep. Siegfried, the House adjourned until 10:00 a.m., Friday, April 29, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

