

Journal of the House

THIRTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 7, 2012, 11:00 a.m.

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

The roll was called with 121 members present.

Reps. Kelley and LeDoux were excused on verified illness.

Rep. Seiwert was excused on legislative business.

Rep. Henderson was excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Elvin Dillard, pastor, Grace Community Church, Overbrook, and guest of Rep. Johnson:

Our great and Mighty God, who alone is sovereign,

We come in the precious name of Jesus to praise you for your faithfulness, to acknowledge your Grace and your mercy – to thank you for your kindness and favor you have shown the citizens of this great land. As we gather today to discuss the affairs of this grand state, we come to you the one true and living God and seek your guidance. We come to you because we know you are infinitely wise and desire to share that which will enable us to make wise decisions. We confess we are frail and prone to error and without your Divine intervention we will wander and go astray. So we come not because of our goodness but because of your Greatness. I approach the Throne of Grace on this day to lift up this assembly and ask that by your Spirit you would guide, direct and be glorified through every discussion, procedure and ultimate decision. We ask this in Jesus' name and for his sake. Amen

The Pledge of Allegiance was led by Rep. Frownfelter.

Kansas Trivia Question – In Kinsley there is a sign indicating that one destination is 1,561 miles east and the other is 1,661 miles west. The eastern destination is New York, what is the western?

Answer: San Francisco

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Reps. Moxley and Wetta are spread upon the Journal:

Rep. Moxley:

Turkey is the greatest example we have of a working democracy in the Muslim Middle East. The Turkish people have been a friend and partner of the United States for more than 80 years. It has been a staging post for our military and a huge importer of American products including Kansas wheat and aircraft.

Recently Turkey has actively joined much of the rest of the world in condemning the atrocities in Syria, with whom it shares a border. Turkey holds some of the world's greatest points of history, including Ephesus and Harran. Notably, the Fertile Crescent area of current day Turkey and Iraq is the birth place of Abraham the father of the three Abrahamic faiths Christianity, Judaism and Muslim.

I am proud to show a bond with the Turkish people who have been a true friend to America, who have proven that secular democracy can work in a Muslim country, and who have demonstrated care and restraint in dealing with their own people and also their neighbors.

Rep. Wetta:

We are here to celebrate our long and prosperous friendship with the Turkish people. After our visit to Turkey last year, we have gained a deeper respect and appreciation for our ally in part of the world that makes it crucial to have a friend at this time in history. It is beneficial to recognize the contributions of our friends and the value of maintaining relationships with allies of the state of Kansas, such as the contributions made by the Republic of Turkey and the value of our positive relationship with them. In pursuit of this noble goal, we would like to create the Kansan-Turkish Friendship Network. The purpose of this bipartisan leadership network is to focus on Kansan-Turkish relations and issues that concern Turkish Americans in Kansas, as well as to promote the cultural, educational, academic, political and economic relations between Kansas and the Turkish people. By coordinating the hospitality, cultural and educational events and exchanges this will facilitate and strengthen the development of those relationships.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2776, AN ACT concerning the state fire marshal and certain fire codes; amending K.S.A. 31-134a and repealing the existing section, by Committee on Federal and State Affairs.

HB 2777, AN ACT concerning state institutions; relating to special education and related services provided by the state school for the blind and the state school for the deaf; amending K.S.A. 76-1006 and 76-1102 and K.S.A. 2011 Supp. 72-978 and repealing the existing sections, by Committee on Appropriations.

HB 2778, AN ACT concerning city annexation of fire district lands and taxation; amending K.S.A. 2011 Supp. 12-546 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Education Budget: **HB 2773**.

Federal and State Affairs: **HB 2774**, **HB 2775**.

Taxation: **HB 2772**.

Having appeared on the Calendar under the heading, Motions and Resolutions Offered on a Previous Day, Speaker O'Neal announced the referral of **HR 6013** to Committee on Federal and State Affairs.

CONSENT CALENDAR

No objection was made to **HB 2674**; **SB 264**, **SB 266** appearing on the Consent Calendar for the first day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2396, AN ACT abolishing the commission on judicial performance; amending K.S.A. 2010 Supp. 20-367, 25-4169a, 38-2211, 38-2309, 59-2122, 59-2979, 60-3104 and 60-31a04 and repealing the existing sections; also repealing K.S.A. 20-3203, and 20-3208 and K.S.A. 2010 Supp. 20-3201, 20-3202, 20-3204, 20-3205 and 20-3206, was considered on final action.

On roll call, the vote was: Yeas 79; Nays 42; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alford, Arpke, Aurand, Bethell, Billinger, Boman, Bowers, Brown, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hill, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, Osterman, Otto, Patton, Peck, Phillips, Powell, Prescott, Proehl, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Shultz, Siegfried, Sloan, Smith, Suellentrop, Swanson, Tyson, Vickrey, Weber, Wetta, B. Wolf, Worley.

Nays: Ballard, Bollier, Brookens, Bruchman, Burroughs, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henry, Hineman, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Moxley, O'Neal, Pauls, Peterson, Phelps, Pottorff, Roth, Ruiz, Slattery, Spalding, Tietze, Trimmer, Victors, Ward, Williams, Winn, K. Wolf, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Henderson, Kelley, LeDoux, Seiwert.

The bill passed.

HB 2550, AN ACT concerning alcoholic beverages; amending K.S.A. 41-2640 and 41-2722 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 80; Nays 41; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Colloton, Denning, Fawcett, Finney, Frownfelter, Garber, S. Gatewood, Goico, Gonzalez,

Goodman, Gordon, Gregory, Grosserode, Henry, Hermanson, Hildabrand, Hill, Hineman, Huebert, Johnson, Kelly, Kerschen, Kiegerl, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, McLeland, Meier, Meigs, Mesa, Montgomery, Moxley, O'Brien, O'Hara, Osterman, Phillips, Pottorff, Powell, Prescott, Proehl, Roth, Rubin, Ruiz, Schwab, Schwartz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Vickrey, Weber, Winn, K. Wolf, Wolfe Moore, Worley.

Nays: Brookens, Brown, Collins, Crum, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Flaharty, D. Gatewood, Grange, Grant, Hayzlett, Hedke, Hoffman, C. Holmes, M. Holmes, Howell, Kinzer, Mast, McCray-Miller, O'Neal, Otto, Patton, Pauls, Peck, Peterson, Phelps, Rhoades, Ryckman, Scapa, Schroeder, Shultz, Trimmer, Tyson, Victors, Ward, Wetta, Williams, B. Wolf.

Present but not voting: None.

Absent or not voting: Henderson, Kelley, LeDoux, Seiwert.

The bill passed, as amended.

HB 2743, AN ACT concerning abstracters; relating to license fees; amending K.S.A. 58-2801 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 91; Nays 30; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Bowers, Brookens, Bruchman, Burgess, Burroughs, Calloway, Cassidy, Colloton, Crum, Davis, Denning, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, Goico, Gonzalez, Goodman, Grange, Grant, Hayzlett, Hedke, Henry, Hermanson, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Johnson, Kelly, Kerschen, Kleeb, Knox, Kuether, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Mesa, Montgomery, Moxley, O'Brien, O'Neal, Osterman, Otto, Pauls, Peck, Peterson, Phelps, Phillips, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Schroeder, Schwab, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Victors, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Boman, Brown, Brunk, Carlin, Carlson, Collins, DeGraaf, Dillmore, Donohoe, Garber, S. Gatewood, Gordon, Gregory, Grosserode, Hildabrand, Howell, Huebert, Kiegerl, Kinzer, Landwehr, Lane, Meigs, O'Hara, Patton, Scapa, Schwartz, Shultz, Tyson, Vickrey, Ward.

Present but not voting: None.

Absent or not voting: Henderson, Kelley, LeDoux, Seiwert.

The bill passed.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2422** be adopted; and the bill be passed as amended.

On motion of Rep. Goodman to amend **HB 2480**, the motion did not prevail; also, on motion of Rep. Meier, **HB 2480** be rereferred to Committee on Taxation.

Committee report to **HB 2481** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 316** be passed.

Committee on **Agriculture and Natural Resources** recommends **HB 2729** be amended by adoption of the amendments recommended by the House Committee on Agriculture and Natural Resources as reported in the Journal of the House on February 23, 2012, and the bill, as printed with amendments by House Committee, be further amended:

On page 3, following line 10, by inserting:

"(5) As a condition of receiving the park and recreation motor vehicle permit, the applicant shall consent to the sharing of information, including, but not limited to, the applicant's name, address, email address and phone number, with the secretary of wildlife, parks and tourism by the division of motor vehicles."; and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2755** be amended on page 1, in line 18, after the period by inserting "The state fair board shall not expend any moneys from the state general fund to pay for the cost of furnishing or maintaining any privately funded building or facility on the state fairgrounds, including any rehabilitation and repair costs of such privately funded building or facility."; and the bill be passed as amended.

Committee on **Elections** recommends **HB 2425** be amended by adoption of the amendments recommended by the Committee on Elections as reported in the Journal of the House on February 14, 2012, and the bill, as printed with amendments by House Committee, be passed as amended.

Committee on **Energy and Utilities** recommends **SB 374, SB 384, SB 406** be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Committee on **Federal and State Affairs** recommends **SB 274** be passed.

Committee on **Federal and State Affairs** recommends **HB 2689** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2689," as follows:

"Substitute for HOUSE BILL NO. 2689

By Committee on Federal and State Affairs

"AN ACT concerning alcoholic beverages; amending K.S.A. 41-2612, 79-41a01 and 79-41a04 and K.S.A. 2011 Supp. 41-2601 and repealing the existing sections."; and the substitute bill be passed.

(Sub **HB 2689** was thereupon introduced and read by title.)

Committee on **Health and Human Services** recommends **SB 290** be passed.

Committee on **Health and Human Services** recommends **SB 303** be amended on page 1, in line 19, by striking "The" and inserting "A"; also in line 19, after "crematory" by inserting "which has possession of the cremated remains of a dead human body";

Also on page 1, in line 32, before "Such" by inserting "(b)"; also in line 32, after "disposal" by inserting "under subsection (a)"; in line 36, by striking "(b)" and inserting "(c)";

On page 2, in line 5, by striking "(b)" and inserting "(c)(1)"; in line 11, before "Notwithstanding" by inserting:

"(2)";

Also on page 2, in line 20, before "Should" by inserting:

"(3)";

And by redesignating the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2260** be amended by adoption of the amendments recommended by the Committee on Judiciary as reported in the Journal of the House on February 22, 2012, and the bill, as printed with amendments by House Committee, be passed as amended.

Committee on **Judiciary** recommends **HB 2521** be amended on page 1, in line 6, by striking "civil penalty imposed" and inserting "administrative notice and proposed civil penalty to be imposed on a licensed Kansas cigarette wholesale dealer, tobacco distributor, retail dealer or vending machine operator as defined in K.S.A. 79-3301, and amendments thereto,"; in line 8, by striking "imposed" and inserting "issued"; also in line 8, by striking "such violation"; in line 9, by striking "occurred" and inserting "a citation was issued"; in line 13, by striking "civil penalty" and inserting "administrative notice and proposed civil penalty to be"; in line 15, by striking "imposed" and inserting "issued"; in line 16, by striking "such violation occurred" and inserting "a citation was issued"; in line 21, by striking "civil penalty" and inserting "administrative notice and proposed civil penalty to be"; in line 23, by striking "imposed" and inserting "issued"; in line 24, by striking "such violation occurred" and inserting "a citation was issued"; in line 29, by striking "civil penalty" and inserting "administrative notice and proposed civil penalty to be"; in line 31, by striking "imposed" and inserting "issued"; in line 32, by striking "such violation occurred" and inserting "a citation was issued";

On page 2, in line 1, by striking "civil penalty" and inserting "administrative notice and proposed civil penalty to be"; in line 3, by striking "imposed" and inserting "issued"; in line 4, by striking "such violation occurred" and inserting "a citation was issued"; in line 9, by striking "civil penalty" and inserting "administrative notice and proposed civil penalty to be"; in line 11, by striking "imposed" and inserting "issued"; in line 12, by striking "such violation occurred" and inserting "a citation was issued"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2523** be amended on page 1, in line 13, by striking "health care facility, health" and inserting "medical care facility, medical"; in line 14, by striking "health" and inserting "medical"; in line 20, by striking "health care facility, health" and inserting "medical care facility, medical"; in line 21, after "board" by inserting "of any medical care facility"; in line 24, after "the" by inserting "medical care"; in line 26, by striking "institution" and inserting "facility"; in line 28, by striking "hospital" and inserting "medical care facility"; following line 31, by inserting:

"Sec. 3. K.S.A. 65-446 is hereby amended to read as follows: 65-446. No person shall be required to perform, refer for or participate in medical procedures which result in sterilization of a person, and the refusal of any person to perform, refer for or participate in those medical procedures shall not be a basis for civil liability to any person. No ~~hospital, hospital~~ medical care facility, medical care facility administrator or governing board of any ~~hospital, hospital~~ medical care facility shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any person because of his refusal to perform or participate in such medical procedures such person's exercise of rights protected by this section.

Sec. 4. K.S.A. 65-447 is hereby amended to read as follows: 65-447. No ~~hospital, hospital~~ medical care facility, medical care facility administrator, or governing board of

any medical care facility shall be required to permit the performance, referral for or participation in medical procedures resulting in sterilization within its institution facility and the refusal to permit such procedures shall not be grounds for civil liability to any person. A hospital medical care facility may establish criteria and procedures under which sterilizations may be performed within its institution, in addition to those which may be prescribed by licensing, regulating or accrediting agencies.";

And by renumbering sections accordingly;

Also on page 1, in line 32, after "65-443" by inserting ", 65-446 and 65-447";

On page 1, in the title, in line 1, by striking "abortion" and inserting "medical care facilities; relating to abortion; sterilization"; also in line 1, after "65-443" by inserting ", 65-446 and 65-447"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2609** be amended on page 1, in line 12, by striking all after "amounts"; by striking all in lines 13 through 15; in line 16, by striking all before "from"; in line 17, by striking all following the second "fund"; by striking all in lines 18 through 20; in line 21, by striking all before "\$22,500,000" and inserting "of"; in line 22, by striking "year 2015"; also in line 22, before "and" by inserting "years 2013 and 2014, \$20,250,000 during fiscal year 2015 and \$27,000,000 during fiscal year 2016";

On page 2, following line 2, by inserting:

"New Sec. 2. (a) Subject to the provisions of K.S.A. 79-2925b, and amendments thereto, if the total taxable real property valuation in any municipality increases due to increases in the assessed valuation of existing real property, then the governing body shall lower the mill levy rate to such rate that would equal the amount of *ad valorem* property taxes levied in the next preceding year. This subsection shall not apply to *ad valorem* taxes levied under K.S.A. 72-6431, 76-6b01 and 76-6b05, and amendments thereto, or any other *ad valorem* tax levy which was previously approved by the voters of such municipality. Property that, in the current year, is new construction, is located within added jurisdictional territory, or has changed in use shall not be considered when determining whether the total taxable real property valuation has increased from the prior year.

(b) If the total taxable real property valuation in any municipality decreases, then the governing body may increase the mill levy rate, subject to any statutory restrictions, to a rate that would equal the amount of *ad valorem* property taxes levied in the next preceding year.

(c) The provisions of subsection (a) shall not apply to or limit the levy of *ad valorem* taxes for the payment of principal and interest on bonds, temporary notes and no-fund warrants or judgments rendered against any such taxing subdivision.

(d) For the purpose of this section, "municipality" means any county, township, city, municipal university, school district, community college, drainage district and any other taxing district or political subdivision which levies taxes on property.

Sec. 3. K.S.A. 2011 Supp. 79-2925b is hereby amended to read as follows: 79-2925b. (a) ~~Without adoption of a resolution or ordinance so providing, the governing body of any taxing subdivision shall not approve~~ The governing body of any taxing subdivision shall adopt a resolution or ordinance approving any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year, except with regard to revenue produced and attributable to the

taxation of: (1) New improvements to real property;

(2) increased personal property valuation, other than increased valuation of oil and gas leaseholds and mobile homes;

(3) property located within added jurisdictional territory; and

(4) property which has changed in use.

(b) The provisions of this section shall be applicable to all fiscal and budget years commencing on and after the effective date of this act.

~~(c) The provisions of this section shall not apply to community colleges or unified school districts.~~

~~(4)~~ The provisions of this section shall not apply to revenue received from property tax levied for the sole purpose of repayment of the principal of and interest upon bonded indebtedness, temporary notes and no-fund warrants.

(d) Any resolution adopted pursuant to this section shall be published in the official county newspaper of the county where such taxing subdivision is located.;

And by renumbering sections accordingly;

Also on page 2, in line 3, after "Supp." by inserting "79-2925b and"; also in line 3, by striking "is" and inserting "are";

On page 1, in the title, in line 2, after "fund;" by inserting "relating to revenues produced by property tax levies; mill levy adjustments; resolutions, publication requirements;"; also in line 2, after "Supp." by inserting "79-2925b and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2757** be passed.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2779, AN ACT concerning crimes, punishment and criminal procedure; relating to human trafficking; human trafficking advisory board; establishing the human trafficking victim assistance fund; creating the crime of commercial sexual exploitation of a child; relating to selling sexual relations; promoting the sale of sexual relations; buying sexual relations; amending K.S.A. 2011 Supp. 21-6419, 21-6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6815, 22-2515, 22-3717, 22-4902, 22-4906, 38-2243, 38-2260 and 38-2312 and repealing the existing sections; also repealing K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c, 22-4902a, 22-4906a, 38-2312a and 38-2312b, by Committee on Federal and State Affairs.

HB 2780, AN ACT concerning the secretary of state; relating to ballot language statements, by Committee on Federal and State Affairs.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2508** from Committee on Appropriations and rereferral to Committee on Insurance.

APPOINTMENT OF SELECT COMMITTEE

Speaker O'Neal, pursuant to House Rule 4902, appointed the following members to

serve on a Select Investigative Committee in response to the complaint filed with House Clerk Susan Kanaar on March 6, 2012:

Rep. Shultz, Chair; Reps. Kinzer, Bruchman, Pauls, Trimmer and Slattery.

A copy of the signed complaint will be given to Chairman Shultz, who will then proceed under the House Rule to convene the Committee and initiate its inquiry. Pursuant to House Rule 4902(b), the select committee shall constitute an investigating committee and shall have the powers thereof under Article 10 of chapter 46 of the Kansas Statutes Annotated. Rules and Journal Committee staff are assigned to assist.

MR. SPEAKER: Pursuant to House Rule 4901, we are requesting censure procedures including consideration of expulsion of Representative Jim Ward for his actions relating to the amendment relative to **HB 2212** on Thursday, February 23. Representative Ward on four occasions deliberately misled the House members by stating that his amendment did not change the underlying bill. That proved not to be the case and additional legislative action was needed to rectify the situation. – OWEN DONOHOE, TERRILOIS GREGORY, PEGGY MAST, JOHN RUBIN, TOM ARPKE, CHARLOTTE O'HARA, JIM HOWELL, S. MIKE KIEGERL, CONNIE O'BRIEN, BRENDA K. LANDWEHR, GENE SUELLENTROP, MARC RHOADES, BENNY L. BOMAN, JOSEPH SCAPA, LESLIE G. OSTERMAN, PETE DEGRAAF, JOE McLELAND, KASHA KELLEY, DENNIS HEDKE, ANTHONY R. BROWN, JANA GOODMAN, GREG SMITH, TERRY CALLOWAY, JAMES P. FAWCETT, KYLE D. HOFFMAN, DAN L. COLLINS

REPORT ON ENGROSSED BILLS

HB 2550 reported correctly engrossed March 6, 2012.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Thursday, March 8, 2012.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

