

Journal of the House

THIRTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, January 31, 2013, 11:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 124 members present.

Rep. O'Brien was excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Kenneth Armstrong, pastor, Westside Baptist Church, Emporia, and guest of Rep. Mast:

Our Gracious God and Heavenly Father we thank you today for the many blessings that you bestow on us. We thank you for our country and the great state in which we live. We pray for all our leaders and their families.

We thank you God for guidance when there are difficult decisions to be made; for provisions in our time of need; and for your love so freely given to all who look to you.

Bless the men and women in this hall for the concern they have and the sacrifice they make as they serve the people of Kansas. Help them to justly and righteously perform the responsibilities of their positions; looking to you alone who are just and righteous altogether.

Give them wisdom and courage as they endeavor to know and do your will.

These things we ask in the name of our wonderful Lord and Savior. Amen

The Pledge of Allegiance was led by Rep. Grosserode.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2176, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the Eisenhower foundation license plate, by Representatives Barker, Alford, Becker, Bideau, Bradford, Bridges, Bruchman, Christmann, Crum, Doll, Dove, Edwards, Ewy, Finch, Goico, Hineman, Jennings, Kahrs, Kelly, Kuether, Pauls, Phillips, Rothlisberg, Rubin, Sawyer, Waymaster and Whipple.

HB 2177, AN ACT relating to motor carriers; concerning safety rules and regulations; certificates of convenience and necessity; transportation of certain materials; amending K.S.A. 66-1,129b and K.S.A. 2012 Supp. 66-1,114b and 66-1,129 and repealing the existing sections, by Committee on Transportation.

HB 2178, AN ACT concerning state employees; relating to longevity bonus payments; amending K.S.A. 2012 Supp. 75-5541 and repealing the existing section, by Committee on General Government Budget.

HB 2179, AN ACT concerning the secretary of labor; relating to assignment of wage claims taken by the secretary; amending K.S.A. 2012 Supp. 44-324 and repealing the existing section, by Committee on General Government Budget.

HB 2180, AN ACT concerning certain veterans service organizations; dealing with electronic gaming machines; amending K.S.A. 2012 Supp. 74-8702 and repealing the existing section, by Committee on Veterans, Military and Homeland Security.

HOUSE CONCURRENT RESOLUTION No. **HCR 5008**—

By Committee on Transportation

A CONCURRENT RESOLUTION encouraging the Kansas Department of Transportation to make engineering decisions based upon established, professional findings and methodologies rather than political considerations.

WHEREAS, The Kansas state highway system contains approximately 9,500 miles of highway, and in the year 2010 in excess of 26 million daily vehicle miles were traveled on them; and

WHEREAS, Users of Kansas highways include those traveling in passenger vehicles, commercial vehicles and on motorcycles; and

WHEREAS, In 2010 there were approximately 80,000 motorcycles registered in the state of Kansas; and

WHEREAS, The Kansas department of transportation has adopted policies relating to the construction and engineering of Kansas highways, but has not followed those policies and may be exposing the state to liability for injuries suffered as a result of not following those policies; and

WHEREAS, The Kansas department of transportation should engineer and design roadways to standards that ensure the safety of all users, including those who ride motorcycles: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we encourage the Kansas Department of Transportation to use professional findings and methodologies when making engineering decisions and not base such decisions upon political considerations; and

Be it further resolved: That the Secretary of State be directed to provide an enrolled copy of this resolution to the Secretary of Transportation.

CORRECTION OF REFERENCE

Speaker Merrick announced **HB 2167** appearing on the Calendar under Reference of Bills and Concurrent Resolutions as being referred to Committee on Federal and State Affairs, should be corrected to be referred to Committee on Veterans, Military and Homeland Security.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture and Natural Resources: **HB 2171**.
 Commerce, Labor and Economic Development: **HB 2158, HCR 5007**.
 Corrections and Juvenile Justice: **HB 2161, HB 2165, HB 2169, HB 2170, HB 2175** (separately).
 Education: **HB 2141**.
 Education Budget: **HB 2140, HB 2142, HB 2148, HB 2149, HB 2151, HB 2156**.
 Elections: **HB 2130, HB 2162, HCR 5006**.
 Federal and State Affairs: **HB 2132, HB 2168, HB 2175** (separately).
 Financial Institutions: **HB 2139, HB 2152**.
 General Government Budget: **HB 2143, HB 2145, HB 2146, HB 2150**.
 Health and Human Services: **HB 2153, HB 2154, HB 2155, HB 2157, HB 2160**.
 Judiciary: **HB 2144, HB 2163, HB 2164, HB 2166, HB 2173**.
 Local Government: **HB 2129, HB 2172**.
 Taxation: **HB 2134, HB 2135, HB 2136, HB 2159, HB 2174**.
 Transportation: **HB 2131, HB 2133, HB 2147**.
 Transportation and Public Safety Budget: **HB 2137**.
 Utilities and Telecommunications: **HB 2138**.

COMMUNICATIONS FROM STATE OFFICERS

From Bob Jurgens, Chief, Assessment & Restoration Section, Kansas Department of Health & Environment, in accordance with K.S.A. 49-512(h), on behalf of the Treece Relocation Assistance Trust, Project Monthly Expenditure/Income Report for the December 2012 reporting period.

From Patti Petersen-Klein, Executive Director, Utilities Division, Kansas Corporation Commission, pursuant to K.S.A. 66-1282, Biennial Report on Electric Supply and Demand, 2013.

From Patti Petersen-Klein, Executive Director, Utilities Division, Kansas Corporation Commission, pursuant to K.S.A. 2011 Supp. 66-2005, Annual Price Deregulation Report, 2013.

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

MESSAGES FROM THE SENATE

The Senate concurs in House amendments to **SCR 1604**.

Also, announcing passage of **SB 7, SB 8, SB 18, SB 20**.

Also, announcing adoption of **SCR 1601**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 7, SB 8, SB 18, SB 20; SCR 1601.

CONSENT CALENDAR

No objection was made to **HB 2006** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2023, AN ACT concerning certain employee organizations; relating to political activities; amending K.S.A. 75-4333 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 68; Nays 56; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alford, Barker, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Carlson, Carpenter, Cassidy, Claeys, Concannon, Crum, DeGraaf, Dove, Edmonds, Edwards, Esau, Ewy, Gandhi, Garber, Goico, Grosserode, Hawkins, Hedke, Hermanson, Highland, Hildabrand, Hoffman, Howell, Huebert, Hutton, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Lunn, Macheers, Mast, McPherson, Meigs, Merrick, Montgomery, Osterman, Peck, Petty, Powell, Read, Rhoades, Rothlisberg, Rubin, Ryckman Jr., Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Siegfried, Sullentrop, Sutton, Thimesch, Todd, Vickrey, Waymaster, Weber.

Nays: Alcala, Ballard, Becker, Bideau, Bollier, Bridges, Burroughs, Campbell, Carlin, Christmann, Clayton, Corbet, Davis, Dierks, Dillmore, Doll, Finch, Finney, Frownfelter, Gonzalez, Grant, Henderson, Henry, Hibbard, Hill, Hineman, Houser, Houston, Jennings, Kuether, Lane, Lusk, Meier, Menghini, Moxley, Pauls, Perry, Peterson, Phillips, Proehl, Rooker, Ruiz, Sawyer, Shultz, Sloan, Sloop, Swanson, Tietze, Trimmer, Victors, Ward, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: O'Brien.

The bill passed.

EXPLANATIONS OF VOTES

MR. SPEAKER: My family is full of teachers. I have my degree in education and just finished serving on my local school board for the past 3½ years and have a record of fighting for pro-teacher issues. I believe **HB 2023** is pro-teacher. It gives teachers the right to decide where their money is spent. The bill doesn't keep union members from writing checks and or setting up automatic bank drafts to support a PAC. The bill doesn't restrict the free speech rights of the union or its members. For these reasons I vote YES on **HB 2023**. – REID PETTY

MR. SPEAKER: I vote yes on **HB 2023**. I believe that the Government should not be allowed to SUPPORT of FACILITATE in any form or manner political activities of any public entity.

What this bill does is prevent ALL public entities from requiring that some portion of the automatic payroll deductions go directly to support political activities. I am against granting this facility to any public entity in order to carry out political activities.

It also firmly maintains every individual's ability to use payroll deduction for union dues.

It does not in any way diminish the fundamental rights of any Union or its members

from carrying on political activities as they desire. – SHANTI GANDHI, RICHARD CARLSON

MR. SPEAKER: I vote YES on **HB 2023**. I am voting yes for this bill because in my business I work with trade organizations and each of them has a PAC. I am always required to write a separate check when making a contribution to one of the PAC's I contribute to. There are many reasons for this but the most referred to are the following: it provides them with separate accountability, transparency and no problem with commingling of moneys. Since most organizations require separate checks then I feel this should not be considered a burden on the public sector unions. – DAN HAWKINS.

MR. SPEAKER: I vote No on **HB 2023**. **HB 2023** is an overtly political attempt to fix a problem that doesn't exist. Teachers, firefighters and other public employees CHOOSE to join unions, and their payroll deduction is 100% voluntary. As with contributions to the United Way or personal savings accounts, automatic payroll deductions merely streamline our desire to fund causes we support. Furthermore, there is essentially no cost to taxpayers for this service. Because I value the contributions of public employees to this state, I support their rights to improve their profession, and because this bill is a thinly-veiled political attack, I voted NO. – JOHN WILSON

MR. SPEAKER: Proponents cautioned against believing the intent of the bill was to harm unions, and yet they gave compelling evidence that in other states such legislation greatly diminished unions. Whatever the true intention, the consequence is clear: RESTRICTED FREEDOM OF SPEECH FOR PUBLIC STATE EMPLOYEES AND TEACHERS.

Proponents said the purpose of the bill was to protect employees from themselves, from “self -imposed pressure.” So in effect, the state will become an intruding “helicopter-parent,” because the state now knows better how adult individuals should choose to spend their own money, than they do themselves. I must disagree. I vote no on **HB 2023**. – NANCY LUSK

MR. SPEAKER: I vote NO on **HB 2023**. **HB 2023** discriminates against public sector employees; limits first amendment rights, and punishes educators. I will not stand aside and remain silent. I stand with public employees in their right to advocate collectively for policies, issues and candidates. They should not be bullied or disenfranchised by an intrusive, paranoid government. – TOM BURROUGHS, MIKE PETERSON

MR. SPEAKER: I vote No on **HB 2023**. Good public policy should reflect the values of individual liberty and constitutional rights. The liberties and rights of teachers, public safety servants and public sector workers are being stripped away for political gain. How shameful. – BOB GRANT

MR. SPEAKER: I am voting in favor of **HB 2023** because it only states that a union member must now write a check for their contribution to the PAC. This does nothing else. – JOE EDWARDS

MR. SPEAKER: No one from my district expressed support for this bill but it has many local opponents. My school boards are satisfied with current law and a major city in my

district has expressed strong concerns about these changes. The wording of the bill may have unintended consequences. I am also concerned about the impact on law enforcement officers, the Kansas Troopers Association, Fraternal Order of Police, Firefighters and other city employees, most of whom were not aware this bill would cover them. I am voting my district, voting No on **HB 2023**. – ED BIDEAU

MR. SPEAKER: I vote no on **HB2023**. I do not believe public sector employees should have any less opportunity to control the disposition of their pay through payroll deduction than private sector employees. When an individual chooses to work in public employment, they should not be required to give up their ability to direct contributions through payroll deduction simply because they serve the public as a public employee. – RUSS JENNINGS, MELISSA ROOKER

MR. SPEAKER: I voted no on **HB 2023** because it was the wrong Bill, at the wrong time, for the wrong reason. It was a Bill in search of a reason to exist. There was no reason for this Bill to exist. Teachers, firefighters, police officers join a union because they want to, not because they are forced to. This was clearly an attempt to suppress public employees and their first amendment rights. – VIRGIL WEIGEL

MR. SPEAKER: **HB 2023** removes state government from the responsibility of collecting money for public sector unions through automatic paycheck deductions. The bill does not keep union members from writing checks and or setting up automatic bank drafts to support their PAC. The bill does not restrict the free speech rights of the union or its members. Additionally, it does not prevent any fundraising or union political activities. The bill simply takes state government out of the daily function of public sector unions. For these reasons, I vote YES on **HB 2023**. – RANDY GARBER, RAY MERRICK, MARK KAHRIS, JIM HOWELL, JOHN BARKER, ALLAN ROTHLSBERG, DAVE CRUM

On motion of Rep. Vickrey, the House resolved into the Committee of the Whole, with Rep. Cassidy in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Cassidy, Committee of the Whole report, as follows, was adopted: Recommended that **HB 2022** be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Education Budget** recommends **HB 2021**, **HB 2071** be passed.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and concurrent resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2181, AN ACT concerning licensing bodies; relating to licensure and military service members; relating to certain distance education courses, by Committee on Veterans, Military and Homeland Security.

HB 2182, AN ACT concerning crimes, punishment, and criminal procedure; relating to grand juries; amending K.S.A. 22-3002 and 22-3006 and K.S.A. 2012 Supp. 22-3001, 22-3008 and 43-107 and repealing the existing sections, by Committee on Judiciary.

HB 2183, AN ACT concerning communicable diseases; amending K.S.A. 65-6004 and 65-6008 and K.S.A. 2012 Supp. 65-6001 and repealing the existing sections, by Committee on Health and Human Services.

HB 2184, AN ACT directing the secretary of health and environment to create a state plan for comprehensive treatment of chronic obstructive pulmonary disease, by Committee on Health and Human Services.

HB 2185, AN ACT concerning governmental organization; relating to consolidation; amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and 19-205 and repealing the existing sections, by Committee on Local Government.

HB 2186, AN ACT concerning motor vehicle fuel taxes; relating to apportionment of the special city and county highway fund and the county equalization and adjustment fund; dates of transfers; amending K.S.A. 2012 Supp. 79-3425c and repealing the existing section, by Committee on Legislative Post Audit Committee.

HB 2187, AN ACT enacting the massage therapist licensure act; providing for powers, duties and functions of the state board of nursing, by Committee on Health and Human Services.

HB 2188, AN ACT concerning the open records act; amending K.S.A. 2012 Supp. 45-240 and repealing the existing section, by Representative Brunk.

HB 2189, AN ACT concerning the veterans benefit lottery game; disposition of net profits; establishing the veterans benefit lottery game fund and the national guard benefit lottery game fund; amending K.S.A. 2012 Supp. 74-8724 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2190, AN ACT concerning firearms; relating to possession thereof on certain government property; amending K.S.A. 2012 Supp. 21-6309 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2191, AN ACT concerning utilities; relating to cooperatives; member refunds; amending K.S.A. 17-4623 and repealing the existing section, by Committee on Utilities and Telecommunications.

HB 2192, AN ACT concerning public postsecondary education; concerning residents for purposes of tuition and other fees; amending K.S.A. 2012 Supp. 76-729 and repealing the existing section; also repealing K.S.A. 2012 Supp. 76-731a, by Committee on Federal and State Affairs.

HB 2193, AN ACT concerning accessibility standards for public facilities; amending K.S.A. 58-1301b and repealing the existing section, by Committee on Federal and State Affairs.

HB 2194, AN ACT creating the Kansas business workers and community partnership act, by Committee on Federal and State Affairs.

A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, authorizing the legislature to regulate, license and tax the operation or conduct of raffles by certain bona fide nonprofit organizations.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is hereby amended by adding a new section thereto to read as follows:

"§ 3d. Regulation, licensing and taxation of "raffles" authorized. Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas, the legislature may regulate, license and tax the operation or conduct of raffles, as defined by law, by bona fide nonprofit religious, charitable, fraternal, educational veterans organizations. No such nonprofit organization shall contract with a professional raffle or other lottery vendor to manage, operate or conduct any raffle."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. The constitution currently prohibits the operation of lotteries except for specifically authorized lotteries. A raffle is a lottery and is illegal under current law.

"A vote for this proposition would permit the legislature to regulate, license and tax raffles operated or conducted by bona fide religious, charitable, fraternal, educational and veterans nonprofit organizations. The legislature would define what constitutes a raffle. Nonprofit organizations would be prohibited from contracting with a professional lottery vendor to manage, operate or conduct a raffle.

"A vote against this proposition would continue the current prohibition against all raffles."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the primary election in August in the year 2014 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. **HR 6006**—

By Representative Ward

A RESOLUTION disapproving Executive Reorganization Order No. 42; relating to

reorganization of the juvenile justice authority and the department of corrections.

Be it resolved by the House of Representatives of the State of Kansas: That Executive Reorganization Order No. 42 is hereby disapproved in accordance with Section 6 of Article 1 of the Constitution of Kansas; and

Be it further resolved: That the secretary of state shall transmit a copy of this resolution to the governor; and

Be it further resolved: That the secretary of state shall cause this resolution to be published in the session laws to show permanently the foregoing disapproval of the

HOUSE RESOLUTION No. **HR 6007**—

By Committee on Federal and State Affairs

A RESOLUTION designating the Official Robert (Bob) G. Bethell House of Representatives ballot box.

WHEREAS, Former state representative Bob Bethell served in the House of Representatives representing the 113th district from 1999 until 2012; and

WHEREAS, During the 2002 House of Representatives leadership elections, Representative Bethell recognized that the importance and solemnity of the occasion warranted a ballot box that was more fitting to the stature and prestige of the Kansas House of Representatives; and

WHEREAS, Representative Bethell, being a gifted and talented woodworker, set about crafting a new ballot box made entirely from native Kansas walnut; and

WHEREAS, Representative Bethell presented the newly crafted ballot box to the House of Representatives in December of 2004 for use in the upcoming House of Representatives leadership elections; and

WHEREAS, This same ballot box has been used in each of the House of Representatives leadership elections ever since: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That this handcrafted ballot box shall be designated, and shall henceforth be known as the Official Robert (Bob) G. Bethell House of Representatives ballot box; and

Be it further resolved: That the Official Robert (Bob) G. Bethell House of Representatives ballot box shall be used in the House of Representatives leadership elections in perpetuity; and

Be it further resolved: That henceforth the Official Robert (Bob) G. Bethell House of Representatives ballot box shall be stored and maintained by the Sergeant-at-arms for the House of Representatives; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send an enrolled copy of this resolution to former state representative Lorene Bethell and Aletha Ann Pelham.

HOUSE RESOLUTION No. **HR 6008**—

By Representative Victors

A RESOLUTION designating February 6, 2013, as "Native American Legislative Day at the Capitol."

WHEREAS, Native Americans were the first human inhabitants of the land that is now the State of Kansas; and

WHEREAS, The history and culture of the State of Kansas have been significantly influenced by Native American tribes and indigenous peoples; and

WHEREAS, Native American customs and traditions are respected, celebrated and honored as part of a rich legacy throughout the United States; and

WHEREAS, We honor the contributions of Native Americans that have enhanced the freedom, prosperity, and greatness of America today; and

WHEREAS, We honor the Native American Tribal Chairmen of Kansas and their tribal council members for their service as tribal leaders and role models, and for the continued contributions these men and women make to their tribal communities: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we designate February 6, 2013, as "Native American Legislative Day at the Capitol." We urge all Kansans to celebrate the contributions Native American tribes have made and continue to make to the great State of Kansas; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide five enrolled copies of this resolution to Representative Victors.

On motion of Rep. Vickrey, the House adjourned until 11:00 a.m., Friday, February 1, 2013.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

