

Journal of the House

TWENTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 17, 2015, 11:00 a.m.

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

The roll was called with 121 members present.

Rep. Proehl was excused on verified illness.

Rep. Francis was excused on legislative business.

Reps. Kelley and Sawyer were excused on excused absence by the Speaker.

Prayer by the Rev. Dennis Wallace, pastor, Asbury United Methodist Church, Wichita, and guest of Rep. Whitmer:

God, we worship you – we love and honor you for you are the Creator and we are your creation. Thank you for your love and mercy – thank you for your grace that allows each day and each meeting of this chamber to be a new beginning. You are the God who is still at work in our world and in our lives changing us into the people you created us to be.

We gather mindful of our need to seek you for understanding and wisdom. We acknowledge that the answers we seek for our personal lives, for our state, our nation and for our world can only be found in you. You alone are our hope! We ask you to give us your heart, your eyes and your will to do what pleases you for your glory and for our good.

Thank you for your willingness to use us to make your world a better place. We ask that by the power of your Spirit that you give our elected officials the courage and the will to do what is necessary to help all Kansans. Give each person in this room a heart for action and a determination to stay the course.

We ask all of this in Your name, Amen.

The Pledge of Allegiance was led by Rep. Whitmer.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE CONCURRENT RESOLUTION No. **HCR 5015**—

By Committee on Judiciary

HCR 5015-- A PROPOSITION to amend the constitution of the state of Kansas by

revising article 3 thereof, relating to the judiciary.

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 3 of the constitution of the state of Kansas is hereby amended to read as follows:

"Article 3.—JUDICIAL

"§ 1. Judicial power; seals; rules. The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, one court of appeals, district courts, and such other courts as are provided by law; and all courts of record shall have a seal. The supreme court shall have general administrative authority over all courts in this state.

"§ 2. Supreme court. The supreme court shall consist of not less than seven justices who shall be selected as provided by this article. All cases shall be heard with not fewer than four justices sitting and the concurrence of a majority of the justices sitting and of not fewer than four justices shall be necessary for a decision. The term of office of the justices shall be six years except as hereinafter provided. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in age of these shall be chief justice. A justice may decline or resign from the office of chief justice without resigning from the court. Upon such declination or resignation, the justice who is next senior in continuous term of service shall become chief justice. During incapacity of a chief justice, the duties, powers and emoluments of the office shall devolve upon the justice who is next senior in continuous service.

"§ 3. Jurisdiction and terms. The supreme court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus; and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the state.

"§ 4. Reporter; clerk. There shall be appointed, by the justices of the supreme court, a reporter and clerk of such court, who shall hold their offices for two years, and whose duties shall be prescribed by law.

"§ 5. Selection of justices of the supreme court. (a) (1) Any vacancy occurring in the office of any justice of the supreme court and any position to be open on the supreme court as a result of enlargement of such court, or the retirement or failure of an incumbent to file such justice's declaration of candidacy to be retained in office as hereinafter required, or failure of a justice to be elected to be retained in office, shall be filled by appointment by the governor, with the consent of the senate, of one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided.

(2) In event of the failure of the governor to make the appointment within 60 days from the time the names of the nominees are submitted to the governor, the chief justice of the supreme court shall make the appointment from such nominees, with the consent of the senate.

(b) Whenever a vacancy occurs, will occur or position opens on the supreme court, the clerk of the supreme court shall promptly give notice to the governor.

(c) No person appointed pursuant to subsection (a) shall assume the office of justice of the supreme court until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 60 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 60-day time limitation, the senate shall vote to consent to any such appointment not later than 20 days after the senate begins its next session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 60 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office, whose name has been submitted to the governor by the supreme court nominating commission, and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to such appointment.

(d) (1) Each justice of the supreme court appointed pursuant to subsection (a) and consented to pursuant to subsection (c) shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of 12 months in office.

(2) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any justice of the supreme court, the justice may file in the office of the secretary of state a declaration of candidacy for retention in office. If a declaration is not filed as provided in this section, the position held by the justice shall be vacant upon the expiration of the justice's term of office. If such declaration is filed, the justice's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows: "Shall (Here insert name of justice.), Justice of the Supreme Court, be retained in office?"

(3) If a majority of those voting on the question vote against retaining the justice in office, the position which the justice holds shall be vacant upon the expiration of the justice's term of office. Otherwise, unless the justice is removed for cause, the justice shall remain in office for the regular term of six years from the second Monday in January following the election. At the expiration of each term, unless by law the justice is compelled to retire, the justice shall be eligible for retention in office by election in the manner prescribed in this section.

(4) If a majority of those voting on the question vote against the justice's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such justice who has not been retained in office pursuant to this section shall not be eligible for appointment to the office of justice of the supreme court prior to the expiration of six years after the expiration of the justice's term of office.

(e) A nonpartisan nominating commission whose duty it shall be to nominate

and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the "supreme court nominating commission." Such commission shall be organized as hereinafter provided.

(f) The supreme court nominating commission shall be composed as follows: Five members appointed by the governor; and one member from each congressional district chosen from among their number by the resident members of the bar in each such district. All members shall be residents of Kansas. At least one member appointed by the governor shall be a member of the bar in good standing and licensed in Kansas. The governor shall designate one of the five members appointed by the governor to serve as such commission's chairperson.

(g) The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.

(h) No member of the supreme court nominating commission shall, while a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court.

(i) An affirmative vote of $\frac{2}{3}$ of the members of the supreme court nominating commission shall be required to nominate and submit the name of a person to the governor for the office of justice of the supreme court or the office of judge of the court of appeals.

"§ 6. Court of appeals. (a) (1) The court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. The court of appeals shall be a part of the court of justice in which the judicial power of the state is vested by section 1 of this article and shall be subject to the general administrative authority of the supreme court. The court of appeals shall have such jurisdiction over appeals in civil and criminal cases and from administrative bodies and officers of the state as may be prescribed by law, and shall have such original jurisdiction as may be necessary to the complete determination of any cause on review. During the pendency of any appeal, the court of appeals, on such terms as may be just, may make an order suspending further proceedings in the court below, until the decision of the court of appeals.

(2) Any vacancy occurring in the office of any judge of the court of appeals and any position to be open on the court of appeals as a result of enlargement of such court, or the retirement or failure of an incumbent to file such judge's declaration of candidacy to be retained in office as hereinafter required, or failure of a judge to be elected to be retained in office, shall be filled by appointment by the governor, with the consent of the senate, of one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established by section 5 of this article.

(3) In event of the failure of the governor to make the appointment within 60 days from the time the names of the nominees are submitted to the governor, the chief justice of the supreme court shall make the appointment from such nominees, with the consent of the senate.

(b) Whenever a vacancy occurs, will occur or position opens on the court of appeals, the clerk of the supreme court shall promptly give notice to the governor.

(c) No person appointed pursuant to subsection (a) shall assume the office of judge of the court of appeals until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 60 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 60-day time limitation, the senate shall vote to consent to any such appointment not later than 20 days after the senate begins its next session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 60 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office, whose name has been submitted to the governor by the supreme court nominating commission, and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to such appointment.

(d) (1) Each judge of the court of appeals appointed pursuant to subsection (a) and consented to pursuant to subsection (c) shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of 12 months in office.

(2) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any judge of the court of appeals, the judge may file in the office of the secretary of state a declaration of candidacy for retention in office. If a declaration is not filed as provided in this section, the position held by the judge shall be vacant upon the expiration of the judge's term of office. If such declaration is filed, the judge's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows: "Shall (Here insert name of judge.), Judge of the Court of Appeals, be retained in office?"

(3) If a majority of those voting on the question vote against retaining the judge in office, the position which the judge holds shall be vacant upon the expiration of the judge's term of office. Otherwise, unless the judge is removed for cause, the judge shall remain in office for the regular term of four years from the second Monday in January following the election. At the expiration of each term, unless by law the judge is compelled to retire, the judge shall be eligible for retention in office by election in the manner prescribed in this section.

(4) If a majority of those voting on the question vote against the judge's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such judge who has not been retained in office pursuant to this section shall not be eligible for appointment to the office of judge of the court of appeals prior to the expiration of four years after the expiration of the judge's term of office.

(e) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

"§ 7. District courts. (a) The state shall be divided into judicial districts as

provided by law. Each judicial district shall have at least one district judge. The term of office of each judge of the district court shall be four years. District court shall be held at such times and places as may be provided by law. The district judges shall be elected by the electors of the respective judicial districts unless the electors of a judicial district have adopted and not subsequently rejected a method of nonpartisan selection. The legislature shall provide a method of nonpartisan selection of district judges and for the manner of submission and resubmission thereof to the electors of a judicial district. A nonpartisan method of selection of district judges may be adopted, and once adopted may be rejected, only by a majority of electors of a judicial district voting on the question at an election in which the proposition is submitted. Whenever a vacancy occurs in the office of district judge, it shall be filled by appointment by the governor until the next general election that occurs more than 30 days after such vacancy, or as may be provided by such nonpartisan method of selection.

(b) The district courts shall have such jurisdiction in their respective districts as may be provided by law.

(c) The legislature shall provide for clerks of the district courts.

(d) Provision may be made by law for judges pro tem of the district court.

(e) The supreme court or any justice thereof shall have the power to assign judges of district courts temporarily to other districts.

(f) The supreme court may assign a district judge to serve temporarily on the supreme court.

(g) The supreme court or the court of appeals may assign a district judge to serve temporarily on the court of appeals.

"§ 8. Qualifications of justices and judges. Justices of the supreme court, judges of the court of appeals and judges of the district courts shall be at least 30 years of age and shall be duly authorized by the supreme court of Kansas to practice law in the courts of this state and shall possess such other qualifications as may be prescribed by law.

"§ 9. Prohibition of political activity by justices and certain judges. No justice of the supreme court who is appointed under the procedure of section 5 of this article, nor any judge of the court of appeals who is appointed under the procedure of section 6 of this article, nor any judge of the district court holding office under a nonpartisan method authorized in subsection (a) of section 7 of this article, shall directly or indirectly make any contribution to or hold any office in a political party or organization or take part in any political campaign.

"§ 10. Extension of terms until successor qualified. All judicial officers shall hold their offices until their successors shall have qualified.

"§ 11. Compensation of justices and judges; certain limitation. The justices of the supreme court, judges of the court of appeals and judges of the district courts shall receive for their services such compensation as may be provided by law, which shall not be diminished during their terms of office, unless by general law applicable to all salaried officers of the state. Such justices or judges shall receive no fees or perquisites nor hold any other office of profit or trust under the authority of the state, or the United States except as may be provided by law, or practice law during their continuance in office.

"§ 12. Removal of justices and judges; retirement. (a) Justices of the

supreme court may be removed from office by impeachment and conviction as prescribed in article 2 of this constitution. In addition to removal by impeachment and conviction, justices may be retired after appropriate hearing, upon certification to the governor, by the supreme court that such justice is so incapacitated as to be unable to perform adequately such justice's duties. Other judges shall be subject to retirement for incapacity, and to discipline, suspension and removal for cause by the supreme court after appropriate hearing.

(b) Any justice or judge upon reaching age 75 shall retire, except that when any justice or judge attains the age of 75, such justice or judge may, if such justice or judge desires, finish serving the term during which such judge attains the age of 75.

"§ 13. Savings clause. Nothing contained in this amendment to the constitution shall: (a) Shorten the term of office or abolish the office of any justice of the supreme court, any judge of the court of appeals, any judge of the district court, or any other judge of any other court who is holding office at the time this amendment becomes effective, or who is holding office at the time of adoption, rejection, or resubmission of a nonpartisan method of selection of district judges as provided in subsection (a) of section 7 of this article, and all such justices and judges shall hold their respective offices for the terms for which elected or appointed unless sooner removed in the manner provided by law; (b) repeal any statute of this state relating to the supreme court, the supreme court nominating commission, the court of appeals, district courts, or any other court, or relating to the justices or judges of such courts, and such statutes shall remain in force and effect until amended or repealed by the legislature."

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

"Explanatory statement. The purpose of this amendment is to place the law concerning the court of appeals into the constitution, to change the procedure for selecting supreme court justices and court of appeals judges and to change the membership of the nonpartisan supreme court nominating commission. The gubernatorial appointments to the nonpartisan supreme court nominating commission would be increased from four members to five members. The members of the bar would continue to elect four members of the commission. The commission would continue to nominate three persons for appointment by the governor, but a $\frac{2}{3}$ majority vote would be required to submit any person's name to the governor. The governor would appoint one of such persons to the office of justice of the supreme court or judge of the court of appeals, and such person's appointment would be required to be consented to by the senate. A procedure is established whereby senate consent would occur within 30 days of receiving the appointment. If the senate does not consent by a majority vote, the governor would then select an appointment which would again go to the senate for consent. The same appointment and consent procedure would be followed until a valid appointment is made. If the senate fails to vote on an appointment within 30 days, it will be considered that the senate has consented to the appointment.

"A vote for this proposition would place the law concerning the court of appeals into the constitution and provide a procedure whereby a modified supreme court nominating commission would nominate three qualified persons to the governor for each vacant office of justice of the supreme court or judge of the court of appeals. The governor or chief justice would appoint one of such persons to the office of justice of the supreme

court or judge of the court of appeals and the senate, by majority vote, would consent to the appointment.

"A vote against this proposition would leave the law concerning the court of appeals in the Kansas statutes and continue in effect the current procedure whereby the governor appoints judges of the court of appeals, with the consent of the senate. It would also continue in effect the current procedure whereby the supreme court nominating commission nominates three persons for the office of justice of the supreme court and the governor appoints one of such persons, with no senate consent required."

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 general election in November in the year 2016 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.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture and Natural Resources: **HB 2364**.

Appropriations: **HB 2365**, **HB 2366**.

Federal and State Affairs: **HB 2368**.

Taxation: **HB 2367**.

MESSAGES FROM THE SENATE

The Senate adopts the Conference Committee report on **HCR 5002**.

CONSENT CALENDAR

No objection was made to **HB 2124** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2013**, **HB 2091** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2013, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the omega psi phi license plate, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 88; Nays 33; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Burroughs, Couture-Lovelady, Campbell, Carlin, Claeyes, Clark, Clayton, Concannon, Curtis, Dannebohm, Dierks, Doll, Edmonds, Estes, Ewy, Finch, Finney, Frownfelter, Gallagher, Goico, Gonzalez, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Hill, Hineman, Hoffman, Houston, Huebert, Hutchins,

Jennings, Johnson, D. Jones, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lusk, Lusker, Mason, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Rooker, Rubin, Ruiz, Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Sloan, Smith, Swanson, Thimesch, Thompson, Tietze, Trimmer, Vickrey, Victors, Ward, Waymaster, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Barker, Brunk, Carmichael, B. Carpenter, W. Carpenter, Corbet, Davis, DeGraaf, Dove, Esau, Garber, Grosserode, Hawkins, Highland, Hildabrand, Houser, Hutton, K. Jones, Kahrs, Lunn, Macheers, Mast, McPherson, Merrick, Read, Rhoades, Ryckman, Scapa, Suellentrop, Sutton, Todd, Whitmer, Williams.

Present but not voting: None.

Absent or not voting: Francis, Kelley, Proehl, Sawyer.

The bill passed.

HB 2091, AN ACT concerning motor vehicles; relating to registration; decals for license plates, serial numbers; amending K.S.A. 2014 Supp. 8-134 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Curtis, Dannebohm, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gallagher, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwab, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Francis, Kelley, Proehl, Sawyer.

The bill passed.

CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HCR 5002 submits the following report:

The House accedes to all Senate amendments to the resolution, and your committee on conference further agrees to amend the resolution as printed as Amended by Senate on Final Action, as follows:

On page 4, in line 43, before "A" by inserting "Subject to any limitations imposed under the constitution of the state of Kansas, no more than a total of four additional bills or concurrent resolutions or parts of bills or concurrent resolutions in conference or bills or concurrent resolutions or parts of bills or concurrent resolutions which have passed

in either one or both houses during the current biennium of the legislature may be included in the report of the conference committee on any bill or concurrent resolution, except that reports of conference committees on any taxation bill are not subject to the limitation contained in this provision.";

And your committee on conference recommends the adoption of this report.

JEFF KING

TERRY BRUCE

ANTHONY HENSLEY

Conferees on part of Senate

JOHN E. BARKER

MARK KAHR

Conferees on part of House

On motion of Rep. Barker, to adopt the conference committee report on **HCR 5002**, Rep. Ward offered a substitute motion to not adopt the conference committee report and that a new conference committee be appointed.

The substitute motion of Rep. Ward did not prevail and the question reverted back to the original motion of Rep. Barker to adopt the conference committee report.

On roll call, the vote was: Yeas 83; Nays 38; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alford, Anthimides, Barker, Barton, Becker, Billinger, Boldra, Bradford, Bruchman, Brunk, Couture-Lovelady, Campbell, B. Carpenter, W. Carpenter, Claeys, Clark, Concannon, Corbet, Dannebohm, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Garber, Goico, Gonzalez, Hawkins, Hedke, Hemsley, Hibbard, Highland, Hineman, Hoffman, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, Kahrs, Kelly, Kiegerl, Kleeb, Lunn, Macheers, Mason, Mast, Merrick, Moxley, O'Brien, Osterman, Patton, Pauls, Phillips, Powell, Read, Rhoades, Rubin, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwab, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Todd, Vickrey, Waymaster, Whitmer, Williams.

Nays: Alcalá, Ballard, Bollier, Bridges, Burroughs, Carlin, Carmichael, Clayton, Curtis, Finney, Frownfelter, Gallagher, Grosserode, Henderson, Henry, Highberger, Hildabrand, Hill, Houser, Houston, K. Jones, Kuether, Lane, Lusk, Lusker, McPherson, Ousley, Peck, Rooker, Ruiz, Tietze, Trimmer, Victors, Ward, Whipple, Wilson, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Francis, Kelley, Proehl, Sawyer.

The motion of Rep. Barker prevailed and the conference committee report on **HCR 5002** was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2059** be amended on page 2, following line 1, by inserting:

"(c) Upon a finding of an unlawful diversion, the chief engineer shall notify the affected groundwater management district. If such diversion happens outside of a groundwater management district, the chief engineer shall notify the adjoining landowners."; and the bill be passed as amended.

Committee on **Agriculture and Natural Resources** recommends **HB 2069** be amended on page 3, in line 4, after "less." by inserting "If such place of use is changed, the amount of water authorized for use by the term permit shall be reduced by 10%.",

On page 4, in line 41, by striking "100%" and inserting "75%"; and the bill be passed as amended.

Committee on **Agriculture and Natural Resources** recommends **HB 2156** be amended on page 2, in line 9, by striking "as"; in line 10, by striking "provided in K.S.A. 82a-1308a, and amendments thereto" and inserting "at a rate per annum equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year";

Also on page 2, following line 10, by inserting:

"Sec. 2. K.S.A. 2014 Supp. 82a-1605 is hereby amended to read as follows: 82a-1605. (a) The state may participate with a sponsor in the development, construction or renovation of a class II multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) In a class II project, the state may assume initial financial obligations for public water supply storage in watersheds by entering into long-term contracts with the federal government. In order to provide security to the federal government, the state may grant assignments of water rights, either appropriation rights or water reservation rights; assignments of rights under existing or prospective water purchase contracts; assignments, mortgages or other transfers of interests in real property held by the state and devoted to the specific small lake project for which security is sought; or may provide other security that is permissible under state law and acceptable by the federal government. Instead of contracting to repay costs under long-term contracts, the state may pay all of the required costs of the public water supply storage in a lump sum.

(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (d), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(d) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most

cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(e) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class II project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent~~ equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year.

Sec. 3. K.S.A. 2014 Supp. 82a-1606 is hereby amended to read as follows: 82a-1606. (a) The state may participate with a sponsor in the development, construction or renovation of a class III multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water supply storage portion of such project unless the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a sponsor is not available to finance 100% of the costs associated with the public water supply storage, the state may participate in the future use public water supply storage costs of the project. If the state participates in the public water supply storage costs, the Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (c), the state may pay up to 100% of the engineering and construction costs of flood control storage and public water supply storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class III project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of~~

~~interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year."~~

Also on page 2, in line 11, by striking "is" and inserting ", 82a-1605 and 82a-1606 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "82a-1604" by inserting ", 82a-1605 and 82a-1606"; also in line 2, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2268** be passed.

Committee on **Judiciary** recommends **HCR 5004** be adopted.

Committee on **Judiciary** recommends **HCR 5005** be amended on page 8, in line 32, by striking "in effect the"; by striking all in lines 33 through 35; in line 36, by striking "one of such persons" and inserting "the current system in which justices of the supreme court are appointed by the governor from a list of three individuals submitted by the supreme court nominating commission and judges of the court of appeals are appointed by the governor, with the consent of the senate"; and the resolution be adopted as amended.

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 2369, AN ACT concerning tanning facilities; prohibiting minors' access to a tanning device, by Committee on Appropriations.

HB 2370, AN ACT making and concerning appropriations for fiscal years ending June 30, 2015, June 30, 2016, June 30, 2017, June 30, 2018, and June 30, 2019, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2014 Supp. 2-223, 12-5256, 55-193, 68-2320, 74-50,107, 74-8963, 74-99b34, 75-2319, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-3425i, 79-34,156, 79-34,171, 79-4804 and 82a-953a and repealing the existing sections; also repealing K.S.A. 2014 Supp. 74-99b34a, by Committee on Appropriations.

CHANGE OF REFERENCE

Speaker pro tem Mast announced the withdrawal of **HB 2253** from Committee on Pensions and Benefits and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2261** from Committee on Commerce, Labor and Economic Development and referral to Committee on Taxation.

Also, the withdrawal of **HB 2321** from Committee on Health and Human Services and referral to Committee on Appropriations.

On motion of Rep. Vickrey, the House adjourned until 11:00 a.m., Wednesday, February 18, 2015.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

