

Journal of the House

TENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, January 26, 2004, 1:00 p.m.

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

Prayer by guest chaplain, the Rev. Michael L. Lewis, pastor, First Christian Church, Syracuse, and guest of Rep. Hayzlett:

Almighty God, You have both created and given us this land we call Kansas.

It is with much gratitude that we continue, as You allow, to steward this land and govern these people in truth and justice. We lift our prayer for each member of this house, as ministers of God according to Your Word. Each will surely stand in judgment before a merciful but just God.

Forgive us when we flirt with Secular Humanism or Political Correctness. Forgive us when we substitute "big government" or even our "preferences" in place of the one true God. Forgive us when we legislate immorality instead of morality. Forgive us when we reason; what we do in private life has no bearing on public life. Forgive us when we would rather be well thought of now — than hear the words "well done" later. Forgive us when we invoke Your blessing in times of disaster and ignore you when things are good.

Father, we pray for courage, resolve and a sacrificial spirit for these your public servants and we say "To the stars through difficulty," knowing the Maker of the stars will empower us! In Jesus Name we pray. Amen.

The Pledge of Allegiance was led by Rep. Gordon.

COMMUNICATIONS FROM STATE OFFICERS

To all to whom these presents shall come, Greetings:

I, RON THORNBURGH, Secretary of State, do hereby certify that Oletha Faust-Goudeau, Wichita, Kansas, was appointed by the Governor effective January 26, 2004, for the unexpired term State Representative for the 84th Legislative District, to fill the vacancy created by the resignation of Donald Betts Jr.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed my official seal. Done at the city of Topeka this 26th day of January, A.D. 2004.

RON THORNBURGH
Secretary of State

Speaker Mays welcomed Rep. Faust-Goudeau who addressed a few remarks to the members of the House.

The roll was called with 121 members present.

Reps. Kauffman, Loyd, Sawyer and Thimesch were excused on excused absence by the Speaker.

The House is again organized with 125 members.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2589, An act concerning campaign finance; pertaining to electronic filing of certain reports; amending K.S.A. 25-4144, 25-4148, 25-4157 and 25-4186 and K.S.A. 2003 Supp. 25-4145 and repealing the existing sections, by Committee on Ethics and Elections.

HB 2590, An act concerning cemeteries; relating to the abandonment of burial rights, by Representatives Gordon and Holland.

HB 2591, An act concerning land and water recreational areas; relating to limited liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-3202 and repealing the existing sections, by Committee on Tourism and Parks.

HB 2592, An act concerning school districts; relating to the transfer of territory between districts, by Committee on Education.

HB 2593, An act concerning agriculture; relating to livestock; animal identification program; powers and duties of livestock commissioner; fees; violations; amending K.S.A. 2003 Supp. 45-221 and repealing the existing section, by Committee on Agriculture.

HB 2594, An act concerning the duty of care of a producer of livestock or of meat food products; creating a presumption of wholesomeness and a defense to litigation when a meat food product is inspected and passed, by Committee on Agriculture.

HB 2595, An act concerning the civil commitment of sexually violent predators; relating to the costs thereof; amending K.S.A. 2003 Supp. 59-29a04 and repealing the existing section, by Representative Reitz.

HB 2596, An act concerning district attorneys; relating to the budget of the office; amending K.S.A. 22a-106 and repealing the existing section, by Representatives Goering, Barbieri-Lightner, Brunk, Burgess, Carter, Dahl, DeCastro, Goico, Howell, Huebert, Huff, Humerickhouse, Huy, E. Johnson, Landwehr, Light, Long-Mast, Loyd, Mason, McCreary, McLeland, Merrick, Judy Morrison, Myers, Newton, Novascone, Owens, Patterson, Sawyer, Schwab, S. Sharp, Siegfried, Tafanelli and D. Williams.

HB 2597, An act concerning insurance; pertaining to the elimination of the errors and omissions requirement for insurance agents; amending K.S.A. 40-241, 40-246b, 40-2,131 and 40-4503 and repealing the existing sections; also repealing K.S.A. 40-246f, by Committee on Insurance.

HB 2598, An act concerning crimes and punishment; relating to cruelty to animals; amending K.S.A. 2003 Supp. 21-4310 and repealing the existing section, by Representative Kuether (By Request).

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Rep. Aurand, **HCR 5029**, by Reps. Mays and McKinney, as follows, was introduced and adopted.

HOUSE CONCURRENT RESOLUTION No. 5029—

A CONCURRENT RESOLUTION providing for a joint session of the Senate and House of Representatives for the purpose of commemorating Kansas Day, commemorating the 150th year anniversary of Kansas becoming a territory of the United States and hearing an address by “John Brown.”

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Senate and the House of Representatives meet in joint session in Representative Hall at 10:30 a.m. on January 30, 2004, for the purpose of commemorating Kansas Day, commemorating the 150th year anniversary of Kansas becoming a territory of the United States and hearing an address by “John Brown.”

In accordance with **HCR 5029**, Speaker Mays appointed Reps. Freeborn, Myers and Gilbert to escort the Senate.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were referred to committees as indicated:

Appropriations: **HB 2582**.

Calendar and Printing: **HCR 5028**.

Commerce and Labor: **HB 2584**.
 Corrections and Juvenile Justice: **HB 2586**.
 Education: **HB 2587, HB 2588**.
 Financial Institutions: **HB 2580**.
 Judiciary: **HB 2581, HB 2583**.
 Local Government: **HB 2585**.
 Taxation: **HB 2579**.

MESSAGE FROM THE GOVERNOR

January 21, 2004

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Directive No. 04-348 for your information.

EXECUTIVE DIRECTIVE No. 04-348

Authorizing Personnel Transactions, Authorizing a Fund Transfer,
 and Authorizing Expenditure of Federal Funds

KATHLEEN SEBELIUS
Governor

The above Executive Directive is on file and open for inspection in the office of the Chief Clerk.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to House Rule 2306, **H. Sub. for Sub. SB 153** was withdrawn from the calendar under the heading General Orders and was rereferred to Committee on Utilities.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Aurand, **HR 6008**, by Reps. Mays and McKinney, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6008—

A RESOLUTION relating to assignment of seats of the House of Representatives.

Be it resolved by the House of Representatives of the State of Kansas: That the members of the 2004 regular session shall occupy the same seats assigned pursuant to 2004 House Resolution No. 6003 with the following exception: Faust-Goudeau, seat No. 57.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Speaker Mays announced that order of business, Final Action on Bills and Concurrent Resolutions, would be passed over until Wednesday, January 28, 2004.

REPORTS OF STANDING COMMITTEES

Committee on **Ethics and Elections** recommends **HB 2520** be passed.

Committee on **Utilities** recommends **Substitute for SB 153** be amended by substituting a new bill as recommended by the House Committee on Utilities as reported in the Journal of the House on January 22, 2004, and the substitute bill be amended:

On page 1, by striking all in lines 38 and 39;

By relettering subsections (g) through (dd) accordingly;

On page 3, in line 11, before "fee" by inserting "grant"; in line 12, by striking "tax" and inserting "local fee"; in line 31, before the first "fee" by inserting "grant"; after line 32, by inserting:

"(dd) "Wireless enhanced 911 local fee" means the fee imposed under section 10, and amendments thereto.";

Also on page 3, by striking all in lines 39 through 41; by relettering subsection (gg) as subsection (ff);

On page 5, in line 2, before "fee" by inserting "grant";

On page 7, in line 22, by striking "tax" and inserting "local fee"; in line 23, by striking "tax" and inserting "fee"; in line 26, by striking "tax" and inserting "local fee"; in line 27, by striking "tax" and inserting "fee"; in line 30, by striking "tax" and inserting "fee";

On page 8, in line 2, by striking “tax” and inserting “local fee”; in line 10, by striking “tax” and inserting “local fee”; in line 26, before “fee” by inserting “grant”; also in line 26, by striking “tax” and inserting “local fee”; in line 27, by striking “the fee or tax has” and inserting “such fees have”; in line 28, by striking “fee or tax” and inserting “fees”; in line 29, by striking “fee and tax” and inserting “fees”; in line 32, by striking all after the second “the”; in line 33, by striking all before the period and inserting “fees imposed by this act”; in line 34, before “fees” by inserting “wireless enhanced 911 grant”; in lines 36 and 37, by striking “the wireless enhanced 911 fee” and inserting “such fees”; in line 38, by striking “taxes” and inserting “wireless enhanced 911 local fees”; in line 41, by striking “the wireless enhanced 911 tax” and inserting “such fees”; in line 42, by striking all after “The” and inserting “fees imposed by this act”;

On page 9, in line 3, before “fee” by inserting “grant”; in line 12, before “fees” by inserting “such”; in line 15, by striking “tax” and inserting “local fee”; in line 16, by striking “tax” and inserting “fees”; in line 24, by striking “taxes” and inserting “fees”; in line 26, by striking “taxes” and inserting “such fees”; in line 28, by striking “tax is” and inserting “fees are”; in line 30, by striking all before “shall” and inserting “fees imposed by this act”; in line 33, by striking “fee and tax” and inserting “fees”; in line 37, by striking “fee and tax amount” and inserting “amount of the fees”; in line 39, by striking all after the period; by striking all in lines 40 through 42;

On page 10, in line 1, by striking “tax” and inserting “local fee”; in line 4, by striking “tax” and inserting “fee”; in line 6, by striking “tax” and inserting “local fee”; in line 11, by striking “and taxes”; in line 31, by striking “grant moneys and tax”; in line 32, by striking “this” and inserting “the wireless enhanced 911”; in line 41, by striking “grant moneys and tax”; in line 42, by striking “this” and inserting “the wireless enhanced 911”;

On page 11, in line 10, by striking all after “the”; in line 11, by striking all before the comma and inserting “fees imposed by this act”; in line 21, before “fee” by inserting “grant”; in line 27, by striking “of the tax”; in line 29, by striking “tax” and inserting “local fee”; in line 31, by striking “tax may exceed such amount” and inserting “amount may exceed such limit”; in line 32, by striking “such tax” and inserting “either such amount”; in line 35, by striking “of the tax”; in line 37, by striking “tax” and inserting “local fee”; by striking all in lines 41 through 43;

By striking all on pages 12 through 15;

On page 16, by striking all in lines 1 through 20; by renumbering section 22 as section 19;

In the title, in line 12, by striking “and taxes”; in line 13, by striking all after “grants”; in line 14, by striking all before the period; and the substitute bill be passed as amended.

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 2599, An act concerning sales taxation; relating to destination sourcing rules; amending K.S.A. 2003 Supp. 12-191, 79-3603, 79-3667, 79-3668, 79-3669, 79-3670, 79-3671, 79-3672, 79-3673 and 79-3682 and repealing the existing sections; also repealing K.S.A. 2003 Supp. 79-3603c, by Committee on Taxation.

HB 2600, An act repealing K.S.A. 19-211; relating to the sale or disposition of property by counties, by Committee on Local Government.

HOUSE CONCURRENT RESOLUTION No. 5030—

By Representative Beggs and Ballou

A PROPOSITION to revise article 6 of the constitution of the state of Kansas, relating to education.

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 6 of the constitution of the state of Kansas is hereby revised to read as follows:

“Article 6. — EDUCATION

“~~§ 1. Schools and related institutions and activities~~ **System of public education.** The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining ~~public schools, educational institutions and related activities~~ *a system of public education* which may be organized and changed in such manner as may be provided by law.”

“~~§ 2. State board of education and state board of regents~~ **Governance.** ~~(a)~~ The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law: (a) *The legislature shall make suitable provision for the governance of the system of public education and the schools and institutions that are parts of the system.*

(b) *The legislature shall provide for the supervision of elementary and secondary schools and such other educational institutions and interests.*

~~(b)~~ (c) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. ~~Public institutions of higher education shall include universities and colleges~~ granting baccalaureate or postbaccalaureate degrees and such other *educational* institutions and ~~educational~~ interests as may be provided by law. The state board of regents shall perform such other duties as may be ~~prescribed~~ *provided* by law.

(d) *The legislature may provide for such other instrumentalities of governance, supervision or control of the schools, educational institutions and educational interests of the state as the legislature may deem necessary. Such instrumentalities shall perform such duties as may be provided by law.*

~~(c)~~ (e) Any municipal university shall be operated, supervised and controlled as *may be provided by law.*”

“~~§ 3. Members of state board of education and state board of regents.~~ (a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of four contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled:

~~(b)~~ The state board of regents shall have nine members with overlapping terms as ~~the legislature may prescribe~~ *may be provided by law.* Members shall be appointed by the governor, subject to confirmation by the senate. *Not less than* one member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.

~~(c)~~ (b) Subsequent redistricting shall not disqualify any member of ~~either~~ *the* board from service for ~~the remainder of his~~ *a full term of office.* Any member of ~~either~~ *the* board may be removed from office for cause as may be provided by law.

“~~§ 4. Commissioner of education~~ **Secretary of education.** ~~The state board of education shall appoint a commissioner of education who shall serve at the pleasure of the board as its executive officer. The governor shall appoint a secretary of education, subject to confirmation by the senate. The secretary shall serve at the pleasure of the governor and exercise such powers and perform such duties as may be provided by law.~~”

“~~§ 5. Local Public elementary and secondary schools.~~ **Local Public elementary and secondary schools.** ~~Local Public elementary and secondary schools under the general supervision of the state board~~

~~of education~~ shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs ~~under the general supervision of the state board of education, but~~. All such agreements shall be subject to limitation, change or termination by the legislature. *The secretary of education shall exercise such supervision over the maintenance, development and operation of public elementary and secondary schools as may be provided by law.*"

"§ 6. **Finance.** (a) The legislature shall make suitable provision for finance of the system of public education. ~~The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy; provide for apportionment and appropriation shall continue until changed by statute of the proceeds of such tax.~~ Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) ~~The legislature shall make suitable provision for finance of the educational interests of the state.~~ No tuition shall be charged for attendance at any public school or other public educational institution to ~~pupils~~ persons required by law to attend such school, ~~except such or institution.~~ Fees or supplemental charges as may be other than tuition may be charged to such persons when authorized by law. The legislature may authorize the state board of regents to establish or require the charging of tuition; and other fees and charges for attendance at institutions under its supervision any public school or other public educational institution to persons who are not required by law to attend such school or institution.

(c) No religious sect or sects shall control any part of the public educational funds."

"§ 7. **Savings clause.** ~~(a)~~ All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, ~~1969~~ 2005.

~~(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.~~

~~(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education."~~

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

"*Explanatory statement.* The purposes of this revision of the education article of the state constitution are to: (1) Eliminate language providing for the state board of education; (2) authorize the legislature to provide for persons or agencies, in addition to the state board of regents, to whom governing or supervisory powers in the area of education may be granted; (3) require the governor to appoint a secretary of education; and (4) eliminate obsolete language and generally update the provisions of the article.

"A vote for this proposition will effectuate the purposes for revision of the education article as hereinbefore enumerated.

"A vote against this proposition will continue in effect the present provisions of the education article."

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 the year 2004.

On motion of Rep. Aurand, the House adjourned until 1:00 p.m., Tuesday, January 27, 2004.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

