

Journal of the House

TWELFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, January 26, 2005, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Rep. M. Miller was excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

Lord, we pray for Melody Miller today as she and her family mourn the death of her husband, Larry. Comfort her in her grief with your loving presence and surround her with your grace.

God of creation and life, we gather today to be about the work that you have given to us. And we thank you that you have given us everything we need to get it done.

You fashioned us in your own image and likeness to populate the earth and to continue the work of creating your kingdom in it. You gave us an emptiness that can only be filled by your presence and minds to continue to discover the wonder of what you have done.

Hear us today as we give thanks for the gifts of intelligence and imagination; for deep thought and for the sudden flash of inspiration. As this body works to provide for the education that we all desire for our children, bless its servants with an abundance of your gifts. Remind us all of the blessings we still receive from the ministries of dedicated teachers in our lives. We thank you for the English teacher who made reading fun, for the math teacher who showed us how things work, for the science teacher who unveiled the wonder and beauty of the workings of the world you created, for the coach who taught us about teamwork and character, and for the history teacher who gave us an appreciation of the gift of this blessed land.

Now, Lord, in this and in every matter, may every gift that our teachers gave us be used in a way which pleases you and which blesses a new generation of the children of Kansas, for we have been blessed to be a blessing for others. Amen.

The Pledge of Allegiance was led by Rep. Mast.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2164, An act concerning the IMPACT act; relating to sales tax exemption requirements; time extension; amending K.S.A. 2004 Supp. 74-50,115 and repealing the existing section, by Committee on Economic Development.

HB 2165, An act concerning cemeteries; relating to the revestment of title to lots, by Representative Gordon.

HB 2166, An act concerning civil procedure; relating to appeal bonds; amending K.S.A. 60-3004 and K.S.A. 2004 Supp. 50-6a05 and 60-2103 and repealing the existing sections, by Committee on Judiciary.

HB 2167, An act concerning counties; relating to law enforcement; amending K.S.A. 19-4425 and 19-4426 and repealing the existing sections, by Representative O'Neal.

HB 2168, An act concerning the uniform commercial code; relating to negotiable instruments and bank deposits; concerning a demand draft; amending K.S.A. 84-3-103, 84-3-104, 84-3-309, 84-3-416, 84-3-417, 84-4-207 and 84-4-208 and repealing the existing sections, by Committee on Judiciary.

HB 2169, An act concerning civil procedure; relating to docket fees for post-decree motions; amending K.S.A. 2004 Supp. 60-1621 and repealing the existing section, by Committee on Judiciary.

HB 2170, An act concerning insurance; relating to identification and notification of certain secured parties as loss payees; amending K.S.A. 2004 Supp. 40-2404 and repealing the existing section, by Committee on Insurance.

HB 2171, An act concerning insurance; relating to risk-based capital requirements; amending K.S.A. 2004 Supp. 40-2c01 and repealing the existing section, by Committee on Insurance.

HB 2172, An act concerning insurance agents; pertaining to the revocation of licenses; amending K.S.A. 40-246d and repealing the existing section, by Committee on Insurance.

HOUSE CONCURRENT RESOLUTION No. 5005—

By Committee on Agriculture

A CONCURRENT RESOLUTION urging the United States Department of Agriculture to delay the lifting of the United States ban on cattle imports from Canada.

WHEREAS, Most export markets for United States beef were closed on Christmas Day, 2003 after one cow out of our nation's more than 96 million head of cattle tested positive for BSE; and

WHEREAS, That cow was a dairy cow imported from Canada; and

WHEREAS, Within 24 hours of that discovery 58 countries closed their border to American beef; and

WHEREAS, The shutdown of exports of approximately 2.58 billion pounds of American beef to these foreign markets has cost the U.S. economy more than an estimated \$3.3 billion a year; and

WHEREAS, The United States government and beef industry officials have worked mightily to reassure consumers and government officials throughout the world of the safety and wholesomeness of American beef; and

WHEREAS, Consequently, markets are beginning to reopen but much work remains to be done as most markets are still closed to American beef producers; and

WHEREAS, In January of 2005, two more cases of BSE have been found in Canada and an American governmental technical team has been sent to Canada to conduct investigation and analysis; and

WHEREAS, The USDA plan to lift the ban on importation of Canadian cattle into the United States may increase health risks in the United States and may have a negative long-term economic impact; and

WHEREAS, Lifting of the ban on importation of Canadian beef at this critical time in our nation's sensitive negotiations to open up other nations' markets to American beef will make it much harder to persuade those nations to start accepting American beef imports: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we urge the United States Department of Agriculture to delay the lifting of the ban on importation of Canadian beef until the enhanced investigation and surveillance for BSE has been completed in Canada and until the American beef industry has fully recovered its lost worldwide market share occurring since 2003; and

Be it further resolved: That the Secretary of State is directed to send enrolled copies of this resolution to the President of the United States and the Secretary of the United States Department of Agriculture.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2163**.
 Commerce and Labor: **HB 2157**.
 Corrections and Juvenile Justice: **HB 2162**.
 Economic Development: **HB 2144**.
 Financial Institutions: **HB 2145**.
 Governmental Organization and Elections: **HB 2147, HB 2148, HB 2149**.
 Health and Human Services: **HB 2153, HB 2154, HB 2155, HB 2156, HB 2158**.
 Insurance: **HB 2159, HB 2160, HB 2161**.
 Judiciary: **HB 2150, HB 2151, HB 2152**.
 Utilities: **HB 2146**.

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Larkin in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Larkin, Committee of the Whole report, as follows, was adopted:
 Recommended that **HB 2018** be passed.

Committee report to **HB 2059** be adopted; also, on motion of Rep. Yoder to amend, the motion did not prevail, and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Rules and Journal** recommends **HR 6004** be amended on page 3, in line 31, after the period, by inserting: "No person, other than a member, shall lean on the railings on the floor of the House chamber next to the area of the chamber on which legislators' desks are located during any time the House is on final action.";

On page 4, in line 24, after "legislative" by inserting: "or personal";

On page 8, in line 29, by striking "addresses" and inserting: "city and state of residence";

On page 15, in line 15, after "amendment" by inserting: ", including any amendment from the floor to strike all of the substantive provisions of a bill or resolution and insert other provisions,."; in line 41, after the period, by inserting: "Prior to making a motion to amend, the written motion shall be delivered to the chief clerk.";

On page 20, in line 2, before the period, by inserting: "; (e) custom, usage and precedents";

On page 21, in line 11, after "signed" by inserting: ", with printed name and district number,."; in line 13, by striking "vote is"; in line 14, by striking "taken" and inserting: "adjournment of the House on that day"; and the resolution be adopted as amended.

Committee on **Taxation** recommends **HB 2031** be passed.

Committee on **Taxation** recommends **HB 2040** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

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 2173, An act concerning insurance on personal property; relating to certain inquiries concerning coverage, by Committee on Insurance.

HB 2174, An act concerning property insurance; relating to the cancellation of or refusal to renew coverage, by Committee on Insurance.

HB 2175, An act concerning school districts; enacting the school district equalization act; amending K.S.A. 12-1677, 12-1742, 31-144, 72-1046b, 72-1398, 72-1414, 72-5333b, 72-6622, 72-6757, 72-8187, 72-8230, 72-8233, 72-8236, 72-8309, 72-9504 and 74-32,141 and K.S.A. 2004 Supp. 72-978, 72-5390, 72-8302, 72-8316 and 79-2929a and repealing the existing sections; also repealing K.S.A. 72-6405, 72-6406, 72-6408, 72-6410, 72-6411, 72-6412, 72-6413, 72-6414, 72-6415, 72-6416, 72-6418, 72-6419, 72-6420, 72-6421, 72-6422, 72-6423, 72-6424, 72-6426, 72-6427, 72-6429, 72-6430, 72-6432, 72-6433, 72-6435, 72-6436, 72-6437, 72-6438, 72-6440, 72-6441, 72-6442, 72-6443, 72-6444, 72-6445, 72-6446, 72-6447

and 72-8189 and K.S.A. 2004 Supp. 72-6407, 72-6409, 72-6417, 72-6425, 72-6428, 72-6431 and 72-6434, by Committee on Education.

HB 2176, An act concerning certain investigations conducted by the Kansas bureau of investigation; relating to the disclosure thereof; amending K.S.A. 2004 Supp. 75-712 and repealing the existing section, by Committee on Governmental Organization and Elections.

HB 2177, An act concerning disposition of certain forfeited firearms; amending K.S.A. 21-4206 and K.S.A. 2004 Supp. 60-4117 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2178, An act concerning the Kansas senior care act; relating to preventative health services; amending K.S.A. 75-5927 and K.S.A. 2004 Supp. 75-5928 and repealing the existing sections, by Committee on Health and Human Services.

HB 2179, An act concerning vital records; relating to penalties for fraud; amending K.S.A. 65-2434 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2180, An act concerning crimes and punishment; relating to inherently dangerous felonies; amending K.S.A. 2004 Supp. 21-3404 and 21-3436 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2181, An act concerning utilities; relating to easements and franchise agreements, by Committee on Utilities.

HB 2182, An act concerning land surveys and land surveyors, by Representative Huebert (By request).

HB 2183, An act concerning Fort Hays state university; relating to the capital improvement project to renovate the memorial union; amending section 11 of chapter 184 of the 2004 Session Laws of Kansas and repealing the existing section, by Committee on Appropriations.

HB 2184, An act concerning insurance; enacting the property/casualty modernization act; amending K.S.A. 40-952 and 40-955 and repealing the existing sections, by Representative Carter.

HB 2185, An act concerning annexation; relating to the powers and duties of cities and counties; amending K.S.A. 12-519, 12-521, 12-527, 12-530, 12-531, 12-532, 12-534 and 12-535 and repealing the existing sections; also repealing K.S.A. 12-520, 12-520a, 12-520b, 12-526, 12-536 and 12-537, by Committee on Governmental Organization and Elections.

HB 2186, An act concerning counties; relating to the awarding of certain contracts; amending K.S.A. 19-214 and repealing the existing section, by Committee on Governmental Organization and Elections.

HOUSE CONCURRENT RESOLUTION No. 5006—

By Committee on Governmental Organization and Elections

A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, concerning open government.

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 amended by adding a new section thereto to read as follows:

“§ 16. **Open government.** (a) Every person has the right to inspect and to receive, upon payment of an amount not to exceed the actual cost of duplication, a copy of any public record and to observe, following a reasonable attempt to provide adequate meeting accommodations, the deliberation of any public body or agency of state government or its subdivision, except in cases in which the demand of privacy clearly exceeds the merits of public disclosure.

(b) A statute, court rule or other authority, including those in effect on the effective date of this act, shall be broadly construed if it furthers the people’s right of access and narrowly construed if it limits the right of access.

- (c) All current state laws and court rules that are in effect on the enacting date of this measure wherein public access to records or meetings is limited shall remain in force until they are repealed.
- (d) The legislature may provide by general law, passed by an affirmative vote of two-thirds of all the members elected (or appointed) and qualified in each house, exception of meetings and of records from the requirements set forth herein provided that such law shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law."

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

“Explanatory statement. This amendment (1) would provide that people have a constitutional right of access to information concerning the conduct of the people’s business through access to public documents and access to deliberations of any public body, political subdivision or agency of the state government except in cases in which the demand for privacy or public necessity exceeds the need for public disclosure, (2) would provide for broad construction of statutes, court rules and other authority to further the people’s right of access and (3) would provide that general laws providing new exceptions to public access be passed by a two-thirds vote of each house of the legislature.

“A vote for this proposition would establish a constitutional right of access to public documents and deliberations of public bodies, political subdivisions or agencies of the state government with limited exceptions provided.

“A vote against this proposition would not establish such constitutional right of access.”

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 of the year 2006 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.

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2035** from Committee on Agriculture and referral to Committee on Transportation.

Also, the withdrawal of **HB 2151** from Committee on Judiciary and referral to Committee on Corrections and Juvenile Justice.

Also, the withdrawal of **HB 2159** from Committee on Insurance and referral to Committee on Judiciary.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, January 27, 2005.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

