

Journal of the House

FORTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, March 13, 2007, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Dahl in the chair.
The roll was called with 125 members present.

Prayer by Chaplain Brubaker:

Dear God, it's March Madness time.
Today many are glad,
many feel like they have been had.
In a couple of days, there will be those who are sad,
and those who will be downright mad.
Some might feel just a tad,
that their actions were a bit bad
and they acted like an immature lad.
But when it's all finished and we stand before Dad,
may our attitudes and actions not be one of a passing fad.
And Lord, just in case you think I am talking college basketball,
please know that I am referring to the final resolutions
of proposals of appropriations, taxation, education, legalization and all.
In Christ's name I pray, Amen.

The Pledge of Allegiance was led by Rep. Faber.

INTRODUCTION OF GUESTS

Rep. Mast introduced her "shadow for the day," Denton Chapman, and presented him with a certificate commending him for his hard work and dedication to his scholastic endeavors.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committee as indicated:

Appropriations: **HB 2574**.

CHANGE OF REFERENCE

Speaker pro tem Dahl announced the withdrawal of **HB 2218** from Committee on Elections and Governmental Organization and referral to Committee on Interstate Cooperation.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. C. Holmes, **HR 6011**, A resolution urging the United States Department of Energy to double the current capacity of the Strategic Petroleum Reserve by using storage sites existing and created within the State of Kansas, was adopted.

On motion of Rep. Merrick, **HR 6013**, A resolution congratulating and commending E. Carolyn Rampey, was adopted.

CONSENT CALENDAR

Objection was made to **SB 157** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **SB 19, SB 220, SB 288** 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

SB 19, An act concerning certain county fairs; pertaining to tax levies for buildings and grounds; amending K.S.A. 2006 Supp. 2-131d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 14; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, King, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Pauls, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Brown, Brunk, Davis, Dillmore, Donohoe, Hodge, Kelley, Kinzer, Landwehr, McLeland, Patton, Peck, Ward, Watkins.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

SB 220, An act pertaining to insurance companies; relating to corporate structure; amending K.S.A. 40-1004, 40-1006, 40-1201, 40-1508 and 40-1511 and K.S.A. 2006 Supp. 40-502 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 3; Present but not voting: 1; Absent or not voting: 0.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Lane, Swenson, Ward.

Present but not voting: Landwehr.

Absent or not voting: None.

The bill passed.

SB 288, An act concerning workforce development; certain reports required; amending K.S.A. 2006 Supp. 74-5002s and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. C. Holmes, the House nonconcurred in Senate amendments to **HB 2036** and asked for a conference.

Speaker pro tem Dahl thereupon appointed Reps. C. Holmes, Olson and Neighbor as conferees on the part of the House.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Yoder in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **SB 111, SB 190, SB 240, SB 356, SB 164** be passed.

Roll call was demanded on motion of Rep. Rardin to amend **HB 2264** on page 6, in line 40, after "income" by inserting "of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly";

On roll call, the vote was: Yeas 42; Nays 81; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Burroughs, Carlin, Crow, Davis, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McKinney, McLachlan, Menghini, Otto, Palmer, Pauls, Phelps, Rardin, Ruff, Ruiz, Sawyer, Storm, Svaty, Tietze, Treaster, Ward, Williams, Winn.

Nays: Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colloton, Colyer, Craft, Crum, Dahl, Dillmore, Donohoe, Faber, Fund, Goico, Gordon, Goyle, Grange, Hayzlett, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Owens, Patton, Peck, Pottorff, Powell, Powers, Proehl, Rhoades, Roth, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Swanson, Swenson, Tafanelli, Trimmer, Vickrey, Watkins, Wetta, Whitham, Wilk, B. Wolf, K. Wolf, Worley, Yoder.

Present but not voting: None.

Absent or not voting: George, Peterson.

The motion of Rep. Rardin did not prevail.

Also, on motion of Rep. Menghini, **HB 2264** be amended on page 7, after line 6, by inserting the the following:

“Sec. 2. K.S.A. 2006 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to ~~15%~~ 20% for tax year ~~2002~~ 2007, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer’s federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer’s federal income tax liability.

(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer’s income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.”;

And by renumbering the remaining sections accordingly;

Also on page 7, in line 7, by striking “and” and inserting a comma; also in line 7, after “79-32,117” by inserting “and 79-32,205”;

On page 1, in the title, in line 17, after the second semicolon, by inserting “earned income tax credit;”; in line 18, after “79-32,117” by inserting “and 79-32,205”; also in line 18, by striking “sec-”; in line 19, by striking “tion” and inserting “sections”;

Also, on motion of Rep. Holland, **HB 2264** be amended on page 7, after line 6, by inserting the following:

“Sec. 2. K.S.A. 2006 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) “Income” means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments ~~and all payments received under the federal social security act except disability payments~~, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of “loss of time” insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. *Income does not include payments received under the federal social security act.*

(b) “Household” means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) “Household income” means all income received by all persons of a household in a calendar year while members of such household.

(d) “Homestead” means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. “Owned” includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) “Claimant” means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person’s homestead during the calendar year immediately preceding the year in which a claim is filed under this act.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) “Property taxes accrued” means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant’s homestead in 1979 or any

calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less.

(i) "Rent constituting property taxes accrued" means 20% of the gross rent actually paid in cash or its equivalent in 1979 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was

excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.”;

And by renumbering sections accordingly;

Also on page 7, in line 7, by striking “and” and by inserting a comma; also in line 7, after “79-32,117” by inserting “and 79-4502”;

On page 1, in the title, in line 17, after the second semicolon, by inserting “homestead property tax refunds, social security benefits;”; in line 18, after “79-32,117” by inserting “and 79-4502”; also in line 18, by striking “sec-”; in line 19, by striking “tion” and inserting “sections”; and **HB 2264** be passed as amended.

On motion of Rep. Bowers, **SB 249** be amended on page 2, in line 24, after “the” by inserting “application for”; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Energy and Utilities** recommends **SB 326** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Federal and State Affairs** recommends **HB 2528** be amended on page 2, in line 4, by striking “(b)” and inserting the following:

“(b) Nothing in this section shall:

(1) Prohibit a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, from acting within the scope of such officer’s duties;

(2) prohibit a city or county from regulating the manner of openly carrying a firearm on one’s person; or in the immediate control of a person, not licensed under the family and personal protection act while on property open to the public.

(3) prohibit a city or county from regulating in any manner the carrying of any firearm in any jail, juvenile detention facility, prison, courthouse, courtroom or city hall; or

(4) prohibit a city or county from adopting an ordinance, resolution or regulation requiring a firearm transported in any air, land or water vehicle to be unloaded and encased in a container which completely encloses the firearm or any less restrictive provision governing the transporting of firearms, provided such ordinance, resolution or regulation shall not apply to persons licensed under the family and personal protection act.

(c) No person shall be prosecuted or convicted of a violation of any ordinance, resolution or regulation of a city or county which regulates the storage or transportation of a firearm if such person (1) is storing or transporting the firearm without violating any provision of the Kansas criminal code or (2) is otherwise transporting the firearm in a lawful manner.

(d)”;

On page 6, in line 42, after “posted” by inserting “in accordance with rules and regulations adopted by the attorney general”;

On page 7, after line 21, by inserting the following:

“(12) any youth athletic event not involving firearms occurring on any publicly owned property, except that nothing in this subsection shall be construed to prohibit possession of a firearm in a private means of conveyance even if parked on the public premises;”;

And by renumbering the remaining subsections accordingly;

On page 8, in line 11, before “any” by inserting “:

(1) Any public or private employer from restricting or prohibiting by personnel policies in any manner persons licensed under this act from carrying a concealed weapon while on the premises of the employer’s business or while engaged in the duties of the person’s employment by the employer, except nothing in this section shall be construed to allow an employer to prohibit possession of a firearm in a private means of conveyance, even if parked on the employer’s premises; or

(2)”;

Also on page 8, in line 12, after “business” by inserting “or city, county or political subdivision”; in line 40, before the period by inserting “by persons licensed under this act”; in line 43, after “weapons” by inserting “by persons licensed under this act”;

On page 9, in line 23, after “order” by inserting “and all available information identifying the patient including, but not limited to, birth, gender and race,”; in line 26, by striking

“enter”; in line 27, by striking “the order” and inserting “cause the order to be entered”; also in line 27, by striking “national criminal information center and other”; in line 28, after “priate” by inserting “state and federal”; after line 30, by inserting the following:

“(e) After July 1, 2007, all orders of involuntary commitment for care and treatment pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, and any orders of termination of discharge shall be immediately forwarded to the Kansas bureau of investigation for entry into the appropriate state and federal databases.”;

Also on page 9, in line 31, by striking “(e)” and inserting “(f)”;

On page 10, in line 2, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

Committee on **Insurance and Financial Institutions** recommends **SB 112, SB 114** be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Committee on **Insurance and Financial Institutions** recommends **SB 137** be amended on page 1, in line 16, by striking “For purposes of this section” and inserting “As used in sections 1 and 2, and amendments thereto”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 162, SB 259** 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 were thereupon introduced and read by title:

HB 2575, An act concerning the employment security law; relating to eligibility for benefits; amending K.S.A. 2006 Supp. 44-705 and 44-757 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2576, An act concerning municipally owned or operated electric or natural gas public utilities; concerning regulation by the state corporation commission; amending K.S.A. 66-1,174 and K.S.A. 2006 Supp. 66-104 and repealing the existing sections, by Committee on Federal and State Affairs.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Wednesday, March 14, 2007.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

