

Journal of the House

TWENTIETH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, February 11, 2008, 11:00 a.m.

The House met pursuant to adjournment with Speaker Neufeld in the chair.
The roll was called with 121 members present.
Rep. Crow was excused on verified illness.
Reps. Grange, Huebert and Kelley were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Good morning, Lord . . . it's Monday! After a nice break over the week-end, it is time to get back to work and to focus on the issues before us. Guide our thoughts, curb our attitudes, give us a spirit of teamwork, and may our words be those of encouragement. When we disagree in philosophy, help us to be kind to one another. Keep us humble when things go the way we like . . . and keep us patient and considerate when they don't. And, it's good to see Rep. Johnson back with us today. Thank you for your healing touch on his body.

In all that we say and accomplish, to You be given the glory and honor.
In Jesus' name I pray, Amen.

The Pledge of Allegiance was led by Rep. Proehl.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2800, An act concerning wildlife; relating to youth hunt of a lifetime deer permits; amending K.S.A. 2007 Supp. 32-971 and repealing the existing section, by Representative M. Holmes.

HB 2801, An act concerning the Kansas state high school activities association; concerning state championship football games, by Representatives Kinzer and Merrick.

HB 2802, An act establishing the Kansas performance measurement commission, by Committee on Elections and Governmental Organization.

HB 2803, An act concerning cities; relating to the use of credit cards by persons to pay certain taxes, fees and exactions, by Committee on Elections and Governmental Organization.

HB 2804, An act concerning the Shawnee county fair association; pertaining to the election of directors; amending K.S.A. 2007 Supp. 2-158 and repealing the existing section, by Committee on Elections and Governmental Organization.

HB 2805, An act concerning telecommunications; establishing the Kansas emergency communications preservation act, by Representative Siegfried.

HB 2806, An act concerning electric rates; providing for statewide uniform rates for retail electric customers by customer class, by Committee on Energy and Utilities.

HB 2807, An act concerning rural water districts; amending K.S.A. 2007 Supp. 82a-612 and 82a-619 and repealing the existing sections, by Committee on Energy and Utilities.

HB 2808, An act concerning water; relating to public wholesale water supply districts; amending K.S.A. 19-3552 and repealing the existing section, by Committee on Energy and Utilities.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Federal and State Affairs: **HCR 5031**.

Judiciary: **HB 2799**.

Taxation: **HB 2797**.

Education Budget: **HB 2798**.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills appearing in the calendar as "To be referred" were referred to committees as indicated:

Education: **SB 421**.

Insurance and Financial Institutions: **SB 441**.

Judiciary: **SB 48, SB 411, SB 412, SB 423, SB 424, SB 432, SB 467**.

Taxation: **SB 444**.

CHANGE OF REFERENCE

Speaker Neufeld announced the withdrawal of **HB 2777** from Committee on Appropriations and referral to Committee on Education.

CONSENT CALENDAR

No objection was made to **HB 2643, HB 2656, HB 2700** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2637, An act concerning telecommunications; relating to pricing flexibility and the lifeline service program; amending K.S.A. 66-2006 and K.S.A. 2007 Supp. 66-2005 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 109; Nays 12; Present but not voting: 0; Absent or not voting: 4.

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

Nays: Aurand, Bowers, Dahl, Faber, Feuerborn, McKinney, McLeland, Jim Morrison, Neufeld, Peck, Schwartz, Swanson.

Present but not voting: None.

Absent or not voting: Crow, Grange, Huebert, Kelley.

The bill passed.

SB 49, An act concerning telecommunications; relating to the Kansas universal service fund; amending K.S.A. 2007 Supp. 66-2008 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 112; Nays 9; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crum, Dahl, Davis, Dillmore, Donohoe, Faust-Goudeau,

Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, King, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, Menghini, Merrick, Metsker, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Pauls, Peterson, Phelps, Pottorff, Powell, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, 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: Brunk, Faber, Hodge, Kinzer, McLeland, Jim Morrison, Patton, Peck, Powers.

Present but not voting: None.

Absent or not voting: Crow, Grange, Huebert, Kelley.

The bill passed, as amended.

SB 157, An act concerning the department of wildlife and parks; relating to the purchase of liability insurance, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 19; Present but not voting: 0; Absent or not voting: 4.

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

Nays: Brown, Dahl, Hodge, Kiegerl, Kinzer, Landwehr, Mah, Mast, Masterson, McLeland, Merrick, Peck, Powers, Rhoades, Schroeder, Schwartz, Swanson, Vickrey, Watkins.

Present but not voting: None.

Absent or not voting: Crow, Grange, Huebert, Kelley.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Elections and Governmental Organization** recommends **HB 2749** be amended on page 1, in line 26, by striking "10-131" and inserting "12-1675"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2701** 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 **Judiciary** recommends **HB 2617** be amended on page 1, in line 41, by striking "driving a vehicle" and inserting "operating or attempting to operate a vehicle and such vehicle has been"; in line 42, by striking all after "death"; in line 43, by striking "person" and inserting ", except when a law enforcement officer has reasonable grounds to believe the actions of the operator did not contribute to the accident or collision";

On page 2, in line 7, after "surgery" by inserting ", licensed as a physician's assistant,"; also in line 7, by striking "supervision" and inserting "direction"; in line 12, by striking all after the period; by striking all in lines 13 through 18; in line 19, by striking "sent or waiver form." and inserting the following:

"(d) A law enforcement officer may direct a medical professional described in this section to draw a sample of blood from a person:

(1) If the person has given consent and meets the requirements of subsection (b);

(2) if medically unable to consent, if the person has operated or attempted to operate a vehicle in such a manner as to have caused death or serious injury to another person; or

(3) if the person refuses to submit to and complete a test, if the certifying officer has probable cause to believe that the person, while under the influence of alcohol or drugs, or both, has operated a vehicle in such a manner as to have caused the death of or serious injury to another person.

(e) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person to sign any additional consent or waiver form.”;

Also on page 2, in line 21, by striking all after the period; by striking all in lines 22 through 29; in line 30, by striking “test used, a urine test may be required.” and inserting the following:

“(f) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(g) If a person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(h) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (b)(1) and shall request a urine sample upon meeting the requirements of subsection (b)(2).

(i) ”;

Also on page 2, in line 36, after the period, by inserting “When possible, the supervising person shall be a law enforcement officer.”; in line 38, after the period, by inserting “If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in subsections (d) and (e) shall apply to the collection of a urine sample.”;

On page 3, in line 39, by striking “and physicians” and inserting “willing to conduct such testing”;

On page 4, in line 14, by striking all after the period; by striking all in lines 15 through 18; in line 19, by striking all before “If”;

On page 5, after line 19, by inserting the following:

“(w) As used in this section, “serious injury” means a physical injury to a person, as determined by law enforcement, which has the effect of, prior to the request for testing:

- (1) Disabling a person from the physical capacity to remove themselves from the scene;
- (2) renders a person unconscious;
- (3) the immediate loss of or absence of the normal use of at least one limb;
- (4) an injury determined by a physician to require surgery; or
- (5) otherwise indicates the person may die or be permanently disabled by the injury.”;

And by relettering the appropriate subsections accordingly;

Also on page 5, before line 20, by inserting the following:

“New Sec. 2. (a) The testing and method of testing consented to under K.S.A. 8-1001, and amendments thereto, shall not be considered to have been conducted for any medical care or treatment purpose. The results of such test, the person's name whose bodily substance is drawn or tested, the location of the test or procedure, the names of all health care providers and personnel who participated in the procedure or test, and the date and time of the test or procedure shall not be considered any type of protected health information and therefore it is not individually identifiable health information as such term is used in the

health insurance portability and accountability act of 1996, privacy regulations, 45 C.F.R. 164.501 et seq., and amendments thereto.

(b) All costs of conducting any procedure or test authorized by K.S.A. 8-1001, and amendments thereto, including the costs of the evidence collection kits shall be charged to and paid by the county where the alleged offense was committed. Such county may charge the defendant for the costs paid herein as court costs assessed pursuant to K.S.A. 28-172a or 28-172c, and amendments thereto.

(c) The cost assessed under K.S.A. 8-1001, and amendments thereto, shall be the then current medicaid rate for any such procedure or test, or both.

(d) Notwithstanding any other law to the contrary, the collection and delivery of the sample and required information to the law enforcement officer pursuant to K.S.A. 8-1001, and amendments thereto, shall not be subject to the physician-patient privilege or any other law that prohibits the transfer, release or disclosure of the sample or of the required information.

New Sec. 3. No medical care facility, clinical laboratory, medical clinic, other medical institution, person licensed to practice medicine or surgery, person acting under the direction of any such licensed person, licensed physician assistant, registered nurse, licensed practical nurse, medical technician, emergency medical technician, phlebotomist, health care provider or person who participates in good faith in the obtaining, withdrawal, collection or testing of blood, breath, urine or other bodily substance at the direction of a law enforcement officer pursuant to K.S.A. 8-1001, and amendments thereto, shall incur any civil, administrative or criminal liability as a result of such participation, regardless of whether or not the patient resisted or objected to the administration of the procedure or test.”;

And by renumbering the remaining sections accordingly; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2621** be amended on page 2, in line 2, by striking “temporary”; also in line 2, after “child” by inserting “entered because of such parent’s deployment, mobilization or temporary duty orders”; in line 17, by striking “family”; also in line 17, after “member” by inserting “or members of the service member’s family”; by striking all in lines 29 and 30;

On page 11, in line 10, by striking “statute book” and inserting “Kansas register”; and the 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 were thereupon introduced and read by title:

HB 2809, An act concerning income taxation; relating to credits; contributions of professional time by certain physicians and dentists, by Committee on Taxation.

HB 2810, An act concerning the practice of optometry; amending K.S.A. 2007 Supp. 65-1501 and 65-1501a and repealing the existing sections, by Committee on Health and Human Services.

HB 2811, An act concerning emergency powers of local government and other governmental entities; amending K.S.A. 48-925 and repealing the existing section, by Committee on Appropriations.

HB 2812, An act concerning driving privileges; imposing school attendance requirements upon certain persons; amending K.S.A. 2007 Supp. 8-255 and repealing the existing section, by Representative Schwartz.

HB 2813, An act concerning retired judges; relating to the retention thereof; amending K.S.A. 2007 Supp. 20-2622 and repealing the existing section, by Committee on Judiciary.

HB 2814, An act concerning criminal procedure; relating to appearance bonds; amending K.S.A. 12-4303 and 22-2807 and repealing the existing sections, by Committee on Judiciary.

HB 2815, An act concerning alcoholic beverages; relating to offenses involving persons under 21 years of age; amending K.S.A. 21-3610, 41-346 and 41-2615 and K.S.A. 2007 Supp. 41-2905 and 41-2906 and repealing the existing sections, by Committee on Judiciary.

HB 2816, An act concerning school districts; relating to school safety violations; amending K.S.A. 2007 Supp. 72-89c01 and 72-89c02 and repealing the existing sections, by Committee on Judiciary.

HB 2817, An act concerning microbreweries; relating to licensing; amending K.S.A. 2007 Supp. 41-308b and repealing the existing section, by Committee on Judiciary.

HB 2818, An act concerning expungement; amending K.S.A. 21-4619 and K.S.A. 2007 Supp. 12-4516 and repealing the existing sections, by Committee on Judiciary.

HB 2819, An act concerning crimes, punishment and criminal procedure; relating to criminal use of weapons; amending K.S.A. 21-4201 and repealing the existing section, by Committee on Judiciary.

HB 2820, An act concerning children in need of care; relating to permanency; amending K.S.A. 2007 Supp. 38-2202, 38-2203, 38-2243, 38-2255, 38-2263, 38-2277, 38-2278, 38-2279 and 60-1610 and repealing the existing sections, by Committee on Judiciary.

HB 2821, An act concerning insurance; relating to rates and rate modifications for workers compensation insurance; amending K.S.A. 40-2109 and repealing the existing section, by Committee on Insurance and Financial Institutions.

HB 2822, An act concerning insurance; relating to health insurance plans for small employers; amending K.S.A. 2007 Supp. 40-2246 and repealing the existing section, by Committee on Insurance and Financial Institutions.

HB 2823, An act concerning sales taxation; relating to countywide retailers' sales tax; Brown county; amending K.S.A. 2007 Supp. 12-187 and 12-189 and repealing the existing sections, by Committee on Taxation.

HB 2824, An act amending the railroad leasing act; concerning track leases; amending K.S.A. 2007 Supp. 66-532 and repealing the existing section, by Committee on Transportation.

HB 2825, An act concerning civil procedure; relating to court records and proceedings, by Representative Kinzer.

HB 2826, An act concerning homeowners' associations and associations of apartment owners; relating to certain duties, required procedures and attorney fees, by Committee on Commerce and Labor.

HB 2827, An act concerning the rules and regulations filing act; requiring agencies to consider the effects of proposed rules and regulations on small employers; amending K.S.A. 77-415 and K.S.A. 2007 Supp. 77-416 and repealing the existing sections, by Committee on Commerce and Labor.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Tuesday, February 12, 2008.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

