

Journal of the House

FORTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 13, 2008, 11:00 a.m.

The House met pursuant to recess with Speaker pro tem Dahl in the chair.
The roll was called with 124 members present.
Rep. Svaty was excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Charlie Robinson, pastor, Northridge Church, Sabetha, and guest of Rep. Lukert:

Our Father in Heaven,

We come to you this day, as we do each day, because we are in such desperate need of your help. Lord, there are many men and women before me here who have dedicated themselves and committed their lives to serving this great state and the people in it. I know it is so easy to get distracted by our own needs and desires. I know it is so easy to lose our focus and be swayed by the influence of money or power, and I know it is so easy to lose our sense of purpose and make decisions out of fearing what we may lose. Lord we lay all of these at your feet this day, asking you to give us the wisdom we need. God, make us smarter than we are now that our decisions may honor you and be the best course for the people whom we serve.

We pray this in Jesus' name, Amen.

The Pledge of Allegiance was led by Rep. Bowers.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Goyle are spread upon the journal:

I would like to recognize Michelle Dillard from my district who recently received the Boys & Girls Club Youth of the Year Award from the Boys & Girls Club at McConnell Air Force Base. Michelle, a 17 year old senior at Derby High School, has put a great deal of effort into this accomplishment and I am proud to have Michelle with me today. She joins me here with her father Col. Michael Dillard, mother Jeanene Dillard, and her sister Jeana Dillard.

The Boys & Girls Club of America founded the Youth of the Year program in 1947. This program recognizes teens for outstanding contributions to a member's family, school, community and Boys & Girls Club as well as overcoming personal challenges and obstacles.

Participants are chosen at the local, state, regional, and national level. Five regional winners meet each September in Washington, D.C. to compete for the National Youth of the Year Award.

Youth of the Year candidates are evaluated through a rigorous set of criteria and are required to submit a detailed application, a personal interview, and a prepared speech. Moral character, community involvement, scholastic achievement, contribution to one's school, service to the Boys & Girls Club, life goals, obstacles overcome, poise, and public speaking ability are all evaluated when determining the Youth of the Year.

The Boys & Girls Clubs of America make a positive difference in the lives of many young people. To be recognized by this organization as the state winner demonstrates Michelle's outstanding character and devotion toward making her community, and the State of Kansas, better. We wish her the best of luck in the upcoming regional competition in Houston in June. So please join me in congratulating Michelle for her tremendous accomplishments.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2969, An act concerning school districts; relating to virtual schools; amending K.S.A. 2007 Supp. 72-6407 and repealing the existing section, by Committee on Appropriations.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Insurance and Financial Institutions: **HB 2967**.

Judiciary: **HB 2966**.

General Government Budget: **HB 2968**.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Ward, **HR 6020**, A resolution urging Congress and the President of the United States to halt the contract process for the Air Force mid-air refueling tanker until Congress and the President of the United States have reviewed and approved all the technical, security and economic aspects of the purchase, was adopted.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Ward, **SCR 1621**, A concurrent resolution urging Congress and the President of the United States to halt the contract process for the Air Force mid-air refueling tanker until Congress and the President have reviewed and approved all the technical, security and economic aspects of the purchase, was adopted.

CONSENT CALENDAR

Objection was made to **SB 420** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **SB 579** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2714**, **HB 2858** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 412, An act concerning health care; relating to medical and other care and services assistance repayment; discretionary trusts; amending K.S.A. 2007 Supp. 39-709 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 4; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, 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, 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, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Brunk, Hodge, Kelley, Kinzer.

Present but not voting: None.

Absent or not voting: George, Svaty.

The bill passed.

SB 421, An act concerning school districts; relating to the Kansas challenge to secondary school pupils act; amending K.S.A. 2007 Supp. 72-11a03 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 93; Nays 30; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Donohoe, Faust-Goudeau, Fund, Garcia, Goico, Gordon, Goyle, Grange, Hawk, Hill, Hodge, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, O'Neal, Olson, Otto, Owens, Patton, Pauls, Peck, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Whitham, Wilk, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Burroughs, Carlin, Davis, Dillmore, Faber, Feuerborn, Flaharty, Flora, Frownfelter, Gatewood, Grant, Hayzlett, Henderson, Henry, Holland, Kuether, Lane, Light, Loganbill, Long, Lukert, Menghini, Neufeld, Palmer, Peterson, Phelps, Ruiz, Wetta, Winn.

Present but not voting: None.

Absent or not voting: George, Svaty.

The bill passed.

SB 431, An act concerning the probate code; relating to the increase in allowances for spouses and minor children; amending K.S.A. 59-403, 59-6a215 and 59-2287 and K.S.A. 2007 Supp. 59-1507b and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

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, 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, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, 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: George, Svaty.

The bill passed.

SB 435, An act relating to children and minors; concerning the revised Kansas juvenile justice code and the revised Kansas code for care of children; amending K.S.A. 2007 Supp. 38-2202, 38-2203, 38-2211, 38-2217, 38-2237, 38-2241, 38-2243, 38-2244, 38-2247, 38-2248, 38-2251, 38-2254, 38-2258, 38-2259, 38-2260, 38-2264, 38-2265, 38-2268, 38-2269, 38-2302, 38-2304 and 38-2317 and repealing the existing sections; also repealing K.S.A. 2007 Supp. 38-133, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

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, 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, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, 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: George, Svaty.

The bill passed, as amended.

SB 441, An act concerning insurance; pertaining to HIPAA compliance; amending K.S.A. 2007 Supp. 40-2258 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

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, 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, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, 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: George, Svaty.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: Over the years we have complained at times that the U.S. Government has been slow to respond to the needs of veterans. Now, the 1st Infantry Division has formed a transition battalion to address the health needs of injured troops. In that battalion, mental health services are considered vital. Surely, if even the U.S. military now considers mental health to go hand in hand with physical health, the State of Kansas, home of the Menninger's, should consider mental health parity to be important enough to be permanent law, not subject to annual renewal.

With this noted, I vote yes on **SB 441**.— DENNIS MCKINNEY

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

COMMITTEE OF THE WHOLE

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

Recommended that **SB 434**, **SB 433** be passed.

On motion of Rep. Davis, **SB 437** be amended on page 5, after line 11, by inserting the following:

"Sec. 8. (a) On and after January 1, 2009, the board of regents in collaboration with each public post secondary educational institution shall implement policies, procedures and

guidelines to ensure that faculty and staff consider the least costly practices in assigning textbooks when educational content is comparable as determined by the faculty or staff. Such price information shall be made available to students at the time of enrollment in such course.

(b) As used in this section “postsecondary educational institution” shall have the meaning ascribed thereto by K.S.A. 74-3201b, and amendments thereto.”;

And by renumbering the remaining section accordingly;

On page 1, in line 15, before the period, by inserting “; relating to textbooks”; and **SB 437** be passed as amended.

On motion of Rep. Knox to amend **HB 2873**, the motion did not prevail. Also, on motion of Rep. Otto to refer the bill to the Select Committee on Corrections Reform and Oversight, the motion did not prevail.

Also, on motion of Rep. Otto to amend **HB 2873**, the motion did not prevail. Also, on further motion of Rep. Otto to amend, the motion did not prevail, and **HB 2873** be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Elections and Governmental Organization** recommends **HB 2811** be amended on page 1, after line 37, by inserting:

“(d) “Seize” shall mean the act of forcible dispossessing an owner of property under actual or apparent authority of law.”; and the bill be passed as amended.

Committee on **Energy and Utilities** recommends **SB 526**, **SB 614** 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 **Energy and Utilities** recommends **SB 555** be amended on page 1, in line 16, by striking “(a)”; in line 18, by striking “a major” and inserting “an”; also in line 18, after “charges” by inserting “due to capital improvements, rate of return or cost of service”; in line 19, by striking “major”; in line 24, after “bill” by inserting “, or a separate mailing notifying customers.”; in line 28, after “commission” by inserting “with information about how a customer may intervene at the commission’s rate hearing”; by striking all in lines 29 through 43;

On page 2, by striking all in lines 1 through 10;

On page 1, in the title, in line 12, by striking all after “utilities”; in line 13, by striking all before the period; and the bill be passed as amended.

Committee on **Energy and Utilities** recommends **SB 580** be amended on page 1, in line 28, after “(2)” by inserting “(A)”; in line 38, by striking “15%” and inserting “25%”; also in line 38, by striking “emergency or supplemental”; after line 40, by inserting the following:

“(B) Persons eligible to receive assistance from the weatherization assistance program must be current in their utility bills, or current in a commission approved payment schedule.

(3) The head of the agency administering the weatherization assistance program shall submit an annual accountability report to the senate committee on utilities and the house committee on energy and utilities, or their successors, on or before the first day of the 2009 regular session of the legislature, and on or before the first day of each ensuing regular session of the legislature through 2011. The report shall include, but not be limited to, the following:

(A) The number of homes weatherized by each sub-grantee of the weatherization assistance program, and whether those homes were owner-occupied or rental properties;

(B) whether actual utility usage was factored into the scoring that determined whether to grant assistance;

(C) whether each county in the state has a waiting list for the weatherization assistance program, and the number on those waiting lists; and

(D) the progress each sub-grantee has made in working with local utilities to identify applicants’ homes with the highest usage, using the customer billing information waiver in the application for assistance.”;

In the title, in line 10, after the semicolon by inserting “concerning the weatherization assistance program.”; in line 11, by striking all after the semicolon; by striking all in line 12; in line 13, by striking all before “amending”; 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 concurrent resolution was thereupon introduced and read by title:

HOUSE CONCURRENT RESOLUTION No. 5037—

By Committee on Federal and State Affairs

A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, relating to the public right to hunt and fish.

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: The constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

“§ 21. **Right of public to hunt, fish and trap.** The people have a right to hunt, fish and trap and harvest game, subject to reasonable regulations approved by the state legislature. Consistent with the public trust to conserve birds, fish, game and wildlife, traditional methods may be used to take non-threatened species. Public hunting, fishing and trapping shall be the preferred means of managing and controlling non-threatened wildlife. Nothing in this amendment shall be construed to modify any provision of common law or statutes relating to trespass, eminent domain or any other property rights.”

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

“Explanatory statement. This amendment is to preserve constitutionally the right of the public to hunt, fish and trap wildlife subject to the governing laws and regulations.

The right of the public to hunt, fish and trap shall not modify any provision of common law or statutes relating to trespass, eminent domain or any other private property rights.

“A vote for this proposition would constitutionally preserve the right of the public to hunt, fish and trap wildlife that has traditionally been taken by hunters, trappers and anglers. This public right is subject to state laws and regulations regarding the management of wildlife and does not change or diminish common law or statutory rights relating to trespass, eminent domain or private property.

“A vote against this proposition would provide for no constitutional right of the public to hunt, fish and trap wildlife. It would maintain existing state laws and regulations governing hunting, fishing and trapping wildlife.”

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 2008 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 pro tem Dahl announced the withdrawal of **SB 46** from Committee on Judiciary and referral to Committee on Federal and State Affairs.

INTRODUCTION OF ORIGINAL MOTIONS

In accordance with subsection (b) of House Rule 1309, Rep. Ruiz moved that **HB 2937** be withdrawn from Committee on Commerce and Labor and be placed on the calendar under the order of business General Orders.

(The Chief Clerk of the House of Representatives is requested to read this motion and cause it to be printed in the Calendar of March 14, 2008, under the order of business "Consideration of Motions and House Resolutions Offered on a Previous Day" as provided by House Rule 1309 (b).)

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6021—

By Committee on Education

A RESOLUTION urging the Kansas board of education to study dyslexia.

WHEREAS, the Kansas State Board of Education has made a strong commitment for all students to learn and perform well in school, which requires a focus on early literacy programs and appropriate diagnostic screening, including the screening of language processing; and

WHEREAS, the Kansas Legislature has made a strong commitment to help children with dyslexia and is determined to require that children with dyslexia be provided help and support within Kansas schools; and

WHEREAS, Federal law requires each school district to comply with appropriate teacher training to meet the needs of dyslexic students as required in IDEA; and

WHEREAS, Federal law requires each school district to implement appropriate activities to ensure students with disabilities, including dyslexia, are appropriately screened at an early age and, where appropriate, identified as a child with dyslexia; and

WHEREAS, The Kansas Department of Education does not officially recognize the reading disability of dyslexia; and

WHEREAS, Children with dyslexia have severe difficulty learning to read and need specific interventions by highly qualified instructors that have been trained to effectively deal with reading problems of those with dyslexia: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That the Kansas Board of Education is strongly encouraged to:

Ensure that early testing or screening will identify students with dyslexia in Kansas public schools;

Review current K-12 reading diagnostic assessments to insure that dyslexic reading problems are identified and analyzed;

Review teacher preparation standards to make sure that at least one teacher at each grade level who is responsible for teaching reading has knowledge of appropriate instruction for dyslexic students;

Seek to identify students with dyslexia within one year of the student enrolling in public education;

Provide models of instruction that are specifically designed to address the reading problems of students with dyslexia; and

Report to the Kansas Legislature at the beginning of the 2009 Legislative Session on the progress made in achieving these objectives.

COMMITTEE ASSIGNMENT CHANGE

Speaker pro tem Dahl announced Rep. Frownfelter will replace Rep. McCray-Miller on the Committee on Taxation, effective March 14. Rep. McCray-Miller will return to the committee on March 17.

REPORT ON ENROLLED RESOLUTIONS

HR 6018, HR 6019 reported correctly enrolled and properly signed on March 12, 2008.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Friday, March 14, 2008.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

