

Journal of the House

TWENTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 22, 2011, 11:00 a.m.

The House met pursuant to adjournment with Speaker O'Neal in the chair.

The roll was called with 122 members present.
Reps. Fund, Kiegerl and K. Wolf were excused on verified illness.

Prayer by Chaplain Brubaker:

Dear Father God,
Today I ask that your presence permeate this chamber
and pervade the hearts of these who seek Your will.
These are long days with difficult issues to tackle.
Empower our Legislators with the wisdom and tenacity
needed to solve these sensitive and painful issues facing our state.
Give them strength to endure the long hours of labor.
Give them a positive sense of accomplishment.
Be with their families as they sometimes bear the brunt
of these long, excruciatingly stressful days.
Encourage their hearts and help them as they support
their wife, husband, father, or mother.
These things I ask in Your Son's Name,
Amen.

The Pledge of Allegiance was led by Rep. Wetta.

Kansas Trivia Question – In 1911 Ella Wilson, mayor of Hunnewell, caused a stir by nominating Rosie Osbourn as chief of police. The conflict was finally settled when what entity fined the men on the city council for “having made life miserable” for the mayor?

Answer: The Kansas Supreme Court

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolutions were referred to committees as indicated:

Commerce and Economic Development: **HR 6010**.

Federal and State Affairs: **HCR 5020**.

Taxation: **HB 2361**.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2292**, **HB 2293**, **HB 2307** from Committee on Insurance and referral to Committee on Appropriations.

COMMUNICATIONS FROM STATE OFFICERS

From Bob Jurgens, Chief, Assessment & Restoration Section, Bureau of Environmental Remediation, Kansas Department of Health and Environment, in accordance with K.S.A. 49-512(h), Treece Relocation Assistance Project Monthly Expenditures/Income Report for the January 2011 reporting period.

From Kansas Parole Board, Annual Report, Fiscal Year 2010.

From Sandy Praeger, Commissioner of Insurance, pursuant to K.S.A. 40-108, 2010 Annual Report of the Kansas Insurance Department.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

CONSENT CALENDAR

Objection was made to **HB 2152** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **HCR 5009** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2227** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2267** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2267, AN ACT concerning utilities; relating to electric supply and demand reports, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Fund, Kiegerl, K. Wolf.

The bill passed.

HB 2003, AN ACT designating a part of K-18 highway as the Medal of Honor recipient Donald K. Ross memorial highway, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Fund, Kiegerl, K. Wolf.

The bill passed.

HB 2006, AN ACT concerning public postsecondary education; concerning residents for purposes of tuition and other fees; amending K.S.A. 2010 Supp. 76-729 and repealing the existing section; also repealing K.S.A. 2010 Supp. 76-731a, was considered on final action.

On roll call, the vote was: Yeas 72; Nays 50; Present but not voting: 0; Absent or not voting: 3.

Yeas: Arpke, Aurand, Billinger, Boman, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, Mosier, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Powell, Prescott, Proehl, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Smith, Suellentrop, Tyson, Vickrey, Weber, B. Wolf.

Nays: Alford, Ballard, Bethell, Bollier, Bowers, Brookens, Burroughs, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Goico, Grant, Henderson, Henry, Hill, Hineman, Johnson, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Moxley, Pauls, Peterson, Phelps, Pottorff, Roth, Ruiz, Slattery, Sloan, Spalding, Swanson, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, Wolfe Moore, Worley.

Present but not voting: None.
Absent or not voting: Fund, Kiegerl, K. Wolf.
The bill passed.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yes on **HB 2006** because it affirms and advances the core principles of the rule of law and fundamental fairness on which our society is founded. Rule of law, because it ends the practice of rewarding with taxpayer funded or subsidized benefits the families of those who violate our nation's immigration laws to come to Kansas. Fundamental fairness, because common sense tells us it's just plain wrong to grant taxpayer-funded benefits to the families of illegal immigrants that are not available to non-resident united states citizens or legal immigrants who played by the rules to get here.--JOHN RUBIN, LANA GORDON, JOE McLELAND

MR. SPEAKER: I vote for hope over fear, for enhancing opportunity versus stifling potential, for hospitality over hostility. Political pressure is heavy but life is too short not to vote for what I believe is right. I vote for economic vitality and maintaining current constructive policy. I vote No on **HB 2006**.--DON HILL, CHARLES ROTH, TOM MOXLEY, TOM SLOAN, DON HINEMAN, BARBARA BOLLIER, ANN MAH

MR. SPEAKER: **HB 2006** has been portrayed as an assertion of the rule-of-law and a step to stop illegal immigration. It is neither. The U.S. Supreme Court mandated that all children get a K-12 education. This bill will stop Kansas high school graduates from going with their classmates to college. This bill will destroy lives! I will not vote for a bill that will abort the dream of life for any child! I vote NO on **HB 2006**.--MARIO GOICO

MR. SPEAKER: This vote is about the rule of law and fundamental fairness. When we require United States citizens from other states pay a higher tuition rate than students who are present in our country illegally, we are rewarding those who break our laws while punishing law-abiding students from other states.

I vote yes on **HB 2006** because college is about life lessons and students should not learn that those who break the law will be rewarded.--TERRILOIS GREGORY, CARYN TYSON, BENNY L. BOWMAN, JOSEPH SCAPA, STEVE HUEBERT, DAN COLLINS

MR. SPEAKER: I vote for hope over fear, for enhancing opportunity versus stifling potential, for hospitality over hostility. Political pressure is heavy but life is too short not to vote for what I believe is right. I vote for economic vitality and maintaining current constructive policy and against **HB 2006**.--SHERYL SPALDING

MR. SPEAKER: **HB 2006** is telling hard-working immigrant students, future citizens of this country and of Kansas, that their contributions don't matter. Though Federal Law requires that we educate all students this bill tells the students and those who teach them that their impressive accomplishments are halted. This vote tells the Kansas Board of Regents that, in an impossibly difficult budget year, a policy that brings them talented, tuition-paying students, whose families live and pay taxes in Kansas, will fall victim to the heated politics over federal immigration policy failures. I vote no on **HB 2006**.--SYDNEY CARLIN, MELDOY McCRAY-MILLER

MR. SPEAKER: The text of Micah 6:8 compels that I vote no on **HB 2006**. Political pressure is heavy but life is too short not to vote for what I believe is right. As I looked over the list of opponents who gave testimony to the committee hearing this bill, I was reassured in voting my conscience. I vote for maintaining current Kansas policy, not harmful to anyone, and truly helpful to students graduating from Kansas high schools. – BOB BROOKENS

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Carlson in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Carlson, Committee of the Whole report, as follows, was adopted: Recommended that committee report recommending a substitute bill to **HB 2004** be adopted; also, on motion of Rep. Flaharty to amend, the motion did not prevail and the substitute bill be passed.

On motion of Rep. Schwab to refer **HB 2169** to Committee on Appropriations, the motion did not prevail, and the bill be passed.

Committee report to **HB 2027** be adopted; also, on motion of Rep. Brookens be amended on page 1, after line 28, by inserting "(ii) not overruled by a court or later adjudication; and

(iii) disseminated to the public in one of the following ways:";

Also on page 1, in line 29, by striking "(ii) listed" and inserting "(a) Inclusion"; in line 32, by striking "(iii) published" and inserting "(b) publication"; in line 33, after "terms;" by inserting "or";

On page 2, in line 1, by striking "(iv)" and inserting "(c) being"; in line 2, by striking "; and"; by striking all in line 3, all before the period.";

Also, on motion of Rep. Rep. C. Holmes, **HB 2027** be amended on page 11, after line 3, by inserting "(f) Any agency that issues a guidance document shall provide a copy of such guidance document to the joint committee on administrative rules and regulations.";

Also, on motion of Rep. Otto to amend, the motion did not prevail; and **HB 2027** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Aging and Long Term Care** recommends **HB 2147** be passed.

Committee on **Agriculture and Natural Resources** recommends **HB 2282** be amended on page 1, following line 6, by inserting "New Section 1. There is hereby created the lodging fee fund. The secretary shall remit all license fees received by the secretary under the provisions of K.S.A. 36-502, and amendments thereto, and all license renewal fees for lodging establishments under K.S.A. 36-505, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the lodging fee fund. All expenditures from the lodging fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person designated by the secretary. This section shall be a part of and supplemental to the food service and lodging act.";

And renumbering sections accordingly;

On page 2, in line 5, by striking "facility" and inserting "establishment"; and the bill be passed as amended.

Committee on **Children and Families** recommends **HB 2105** be passed.

Committee on **Commerce and Economic Development** recommends **HB 2135** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2135," as follows:

"Substitute for HOUSE BILL NO. 2135

By Committee on Commerce and Economic Development

"AN ACT concerning certain employees; relating to misclassification of employees to avoid tax withholding, contributions and reporting requirements; amending K.S.A. 2010 Supp. 44-703, 44-766 and 79-3234 and repealing the existing sections."; and the substitute bill be passed.

(Sub. HB 2135 was thereupon introduced and read by title.)

Committee on **Corrections and Juvenile Justice** recommends **HB 2197** be amended on page 2, after line 1, by inserting: "Sec. 3. Nothing in this act shall be construed as creating a cause of action on behalf of any person against the state, a county, a municipality or any of their agencies, instrumentalities or employees.";

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

Committee on **Corrections and Juvenile Justice** recommends **HB 2319** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2010 Supp. 12-4509 is hereby amended to read as follows: 12-4509. (a) Whenever a person is found guilty of the violation of an ordinance, the municipal judge may:

(1) Release the person without imposition of sentence;

(2) release the person on probation after the imposition of sentence, without imprisonment or the payment of a fine or a portion thereof, subject to conditions imposed by the court as provided in subsection (e); ~~or~~

(3) impose such sentence of fine or imprisonment, or both, as authorized for the ordinance violation; or

(4) impose a sentence of house arrest as provided in section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

(b) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance and there is evidence that the act constituting the violation of the ordinance was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the judge may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of social and rehabilitation services.

(c) Except as provided in subsection (d), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having violated, while under 21 years of age, an ordinance prohibiting an act prohibited by K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and amendments thereto, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the

judge finds that the person is indigent, the fee may be waived.

(d) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (c) are permissive and not mandatory.

(e) The court may impose any conditions of probation or suspension of sentence that the court deems proper, including, but not limited to, requiring that the defendant:

(1) Avoid such injurious or vicious habits, as directed by the court or the probation officer;

(2) avoid such persons or places of disreputable or harmful character, as directed by the court or the probation officer;

(3) report to the probation officer as directed;

(4) permit the probation officer to visit the defendant at home or elsewhere;

(5) work faithfully at suitable employment insofar as possible;

(6) remain within the state unless the court grants permission to leave;

(7) pay a fine or costs, applicable to the ordinance violation, in one or several sums and in the manner as directed by the court;

(8) support the defendant's dependents;

(9) reside in a residential facility located in the community and participate in educational counseling, work and other correctional or rehabilitative programs;

(10) perform community or public service work for local governmental agencies, private corporations organized not for profit, or charitable or social service organizations performing services for the community;

(11) perform services under a system of day fines whereby the defendant is required to satisfy fines, costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations and other factors;

(12) make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime, in an amount and manner determined by the court and to the person specified by the court; or

(13) reimburse the city, in accordance with any order made under subsection (f), for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant.

(f) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance the judge may order such person to reimburse the city for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.";

And by renumbering sections accordingly;

Also on page 1, in line 17, by striking "or"; in line 19, following "thereto;" by inserting "or

(D) an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid;"

On page 2, in line 18, following "(g)" by inserting "(1)"; in line 19, by striking "(1)" and inserting "(A)"; in line 20 by striking "(2)" and inserting "(B)"; in line 21, by striking "(3)" and inserting "(C)"; in line 22, by striking "(4)" and inserting "(D)"; in line 23 by striking "(5)" and inserting "(E)"; in line 24 by striking "(6)" and inserting "(F)"; after line 25, by inserting: "(2) Radio frequency devices shall only be used if there is no available means of global positioning system technology in such location at such time."; in line 26, following "secretary" by inserting "or the court";

On page 5, in line 1, by striking "shall" and inserting "may";

On page 9, in line 28, before "Sections" by inserting K.S.A. 2010 Supp. 12-4509 and 21-4704 and";

On page 1, in the title, in line 2, before "sections" by inserting "K.S.A. 2010 Supp. 12-4509 and"; in line 3, before the period by inserting "; also repealing K.S.A. 2010 Supp. 21-4704"; and the bill be passed as amended.

Committee on **Education** recommends **HB 2191** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2191," as follows:

"Substitute for HOUSE BILL NO. 2191

By Committee on Education

"AN ACT concerning school districts; relating to teachers; amending K.S.A. 2010 Supp. 72-5445 and repealing the existing section."; and the substitute bill be passed.

(**Sub. HB 2191** was thereupon introduced and read by title.)

Committee on **Education** recommends **HB 2201** be amended on page 1, in line 9, by striking all after "and"; in line 10, by striking "provided by paragraph (3) of subsection (c)."; in line 16, by striking all after "(c)(1)"; by striking all in lines 17 through 35;

On page 2, by striking all in lines 1 through 3; in line 4, by striking "paragraph (3), such" and by inserting "Such"; in line 6, after "thereon." by inserting "The resolution submitted to the qualified electors of the school district shall specify the maximum local activities budget, which shall not exceed 5% of the local activities budget computation factor for the district for the current school year."; by striking all in lines 26 through 29; following line 29, by inserting: "(2) The authority to adopt a local activities budget granted by the resolution to a school district shall expire five years from the date of the election in which the resolution was approved by the majority of the qualified electors of the school district voting on the question at the election thereon. Upon expiration, no school district shall levy a tax under subsection (g) of this section unless a new resolution has been approved at an election in accordance with subsection (c) of this section.";

On page 3, in line 38, by striking "statute book" and inserting "Kansas Register"; And the bill be passed as amended.

Committee on **Education** recommends **HB 2269** be amended on page 4, in line 20, by striking "79-998" and inserting "72-998"; and the bill be passed as amended.

Committee on **Insurance** recommends **HB 2075, HB 2076, HB 2077** be passed.

Committee on **Insurance** recommends **HB 2139** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2010 Supp. 40-955 is hereby amended to read as follows: 40-955. (a) Every insurer shall file with the commissioner, except as to inland marine risks where general custom of the industry is not to use manual rates or rating plans, every

manual of classifications, rules and rates, every rating plan, policy form and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the proposed effective date and the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filings. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner. An insurer may satisfy its obligations to make such filings by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained in this act shall be construed to require any insurer to become a member or subscriber of any rating organization.

(b) Certificate of insurance forms must be filed with the commissioner of insurance and approved prior to use. Notwithstanding the "large risk" filing exemption in subsection (j), a certificate of insurance cannot be used to modify, alter or amend the insurance policy it describes. The certificate of insurance shall contain the following or similar language: The certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by the policies listed thereon. An industry standard setting organization may be authorized by the commissioner of insurance to file certificate of insurance forms on behalf of authorized insurers.

(c) Any rate filing for the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto, loss costs filings for workers compensation, and rates for assigned risk plans established by article 21 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations established by the commissioner shall require approval by the commissioner before its use by the insurer in this state. As soon as reasonably possible after such filing has been made, the commissioner shall in writing approve or disapprove the same, except that any filing shall be deemed approved unless disapproved within 30 days of receipt of the filing.

(d) Any other rate filing, except personal lines filings, shall become effective on filing or any prospective date selected by the insurer, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fails to meet the requirements of this act. Subject to the provisions of K.S.A. 40-954, and amendments thereto, an insurer may file up to four workers compensation loss cost multipliers and up to four policy holder dividend plans within a single insurer. Eligibility for individual loss cost multipliers and dividend plans shall be based on insurer underwriting criteria and judgment. Personal lines rate filings shall be on file for a waiting period of 30 days before becoming effective, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet requirements of this act. The term "personal lines" shall mean insurance for noncommercial automobile, homeowners, dwelling fire-and-renters insurance policies, as defined by the commissioner by rules and regulations. A filing complies with this act unless it is disapproved by the commissioner within the waiting period or pursuant to subsection (f).

(e) In reviewing any rate filing the commissioner may require the insurer or rating organization to provide, at the insurer's or rating organization's expense, all information necessary to evaluate the reasonableness of the filing, to include payment of the cost of an actuary selected by the commissioner to review any rate filing, if the department of insurance does not have a staff actuary in its employ.

(f) (1) (A) If a filing is not accompanied by the information required by this act, the commissioner shall promptly inform the company or organization making the filing. The filing shall be deemed to be complete when the required information is received by the commissioner or the company or organization certifies to the commissioner the information requested is not maintained by the company or organization and cannot be obtained.

(B) If the commissioner finds a filing does not meet the requirements of this act, the commissioner shall send to the insurer or rating organization that made the filing, written notice of disapproval of the filing, specifying in what respects the filing fails to comply and stating the filing shall not become effective.

(C) If at any time after a filing becomes effective, the commissioner finds a filing does not comply with this act, the commissioner shall after a hearing held on not less than 10 days' written notice to every insurer and rating organization that made the filing issue an order specifying in what respects the filing failed to comply with the act, and stating when, within a reasonable period thereafter, the filing shall be no longer effective. Copies of the order shall be sent to such insurer or rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(2) (A) In the event an insurer or organization has no legally effective rate because of an order disapproving rates, the commissioner shall specify an interim rate at the time the order is issued. The interim rate may be modified by the commissioner on the commissioner's own motion or upon motion of an insurer or organization.

(B) The interim rate or any modification thereof shall take effect prospectively in contracts of insurance written or renewed 15 days after the commissioner's decision setting interim rates.

(C) When the rates are finally determined, the commissioner shall order any overcharge in the interim rates to be distributed appropriately, except refunds to policyholders the commissioner determines are de minimis may not be required.

(3) (A) Any person or organization aggrieved with respect to any filing that is in effect may make written application to the commissioner for a hearing thereon, except that the insurer or rating organization that made the filing may not proceed under this subsection. The application shall specify the grounds to be relied on by the applicant.

(B) If the commissioner finds the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall, within 30 days after receipt of the application, hold a hearing on not less than 10 days' written notice to the applicant and every insurer and rating organization that made such filing.

(C) Every rating organization receiving a notice of hearing or copy of an order under this section, shall promptly notify all its members or subscribers affected by the hearing or order. Notice to a rating organization of a hearing or order shall be deemed notice to its members or subscribers.

(g) No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.

(1) On an application for personal motor vehicle insurance where the applicant has applied for collision or comprehensive coverage, the applicant shall be allowed to identify a lienholder listed on the certificate of title for the motor vehicle described in the application.

(2) On an application for property insurance on real property, the applicant shall be allowed to identify a mortgagee listed on a mortgage for the real property described in the application.

(h) The commissioner may adopt rules and regulations to allow suspension or modification of the requirement of filing and approval of rates as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used.

(i) Except for workers compensation and employer's liability line, the following categories of commercial lines risks are considered special risks which are exempt from the filing requirements in this section: (1) Risks that are written on an excess or umbrella basis; (2) commercial risks, or portions thereof, that are not rated according to manuals, rating plans, or schedules including "a" rates; (3) large risks; and (4) special risks designated by the commissioner, including but not limited to risks insured under highly protected risks rating plans, commercial aviation, credit insurance, boiler and machinery, inland marine, fidelity, surety and guarantee bond insurance risks.

(j) For the purposes of this subsection, "large risk" means: (1) An insured that has total insured property values of \$5,000,000 or more; (2) an insured that has total annual gross revenues of \$10,000,000 or more; or (3) an insured that has in the preceding calendar year a total paid premium of \$50,000 or more for property insurance, \$50,000 or more for general liability insurance, or \$100,000 or more for multiple lines policies.

(k) The exemption for any large risk contained in subsection (h) shall not apply to workers compensation and employer's liability insurance, insurance purchasing groups, and the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto.

(l) Underwriting files, premium, loss and expense statistics, financial and other records pertaining to special risks written by any insurer shall be maintained by the insurer and shall be subject to examination by the commissioner.";

And by renumbering sections accordingly;

On page 3, in line 11, by striking "is " and inserting "and K.S.A. 2010 Supp. 40-955 are";

On page 1, in the title, in line 2, after "40-2109" by inserting "and K.S.A. 2010 Supp. 40-955"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2196** be passed.

Transportation and Public Safety Budget Committee recommends **HB 2173** be amended on page 1, in line 5, after "1." by inserting " (a)"; in line 6, by striking "fix," and inserting "negotiate and enter into contracts, and"; in line 10, by striking "all or part of"; in line 12, after "patrol." by inserting "The Kansas highway patrol shall determine the amount of traffic patrol services and security necessary at events held by private entities and shall set fees accordingly."; by striking all in lines 14 through 17; and inserting " (b) The Kansas highway patrol shall only fix, charge and collect fees pursuant to this section when, in the opinion of the superintendent, the expenses incurred to the highway patrol for providing such security and traffic patrol services will exceed \$20,000.

(c) There is hereby created the highway patrol private security fund. All moneys deposited into the highway patrol private security fund shall be used only for the purpose of providing for security to private entities pursuant to this section. All expenditures from the highway patrol private security fund shall be made in accordance

with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent or the designee of the superintendent. All moneys received by the superintendent for such services shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the highway patrol private security fund.", and the bill be passed as amended.

Committee on **Veterans, Military and Homeland Security** recommends **HCR 5016** be amended on page 1, in line 15, by striking "in these surrounding areas"; in line 18, after "benefits" by inserting "and compensation"; in line 23, after "Vietnam" by inserting "era"; also in line 23, by striking "areas surrounding Vietnam itself" and inserting "support of the Vietnam War"; in line 24, after "benefits" by inserting "and compensation";

On page 1, in the title, in line 2, after "benefits" by inserting "and compensation"; in line 3, after "Vietnam" by inserting "era"; and the resolution be adopted as amended.

On motion of Rep. Siegfried, the House recessed until 1:30 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Carlson in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Carlson, Committee of the Whole report, as follows, was adopted: Recommended that **HB 2157, HB 2010, HB 2184, HB 2249, HB 2151** be passed.

Committee report to **HB 2124** be adopted; and the bill be passed as a amended.

Committee report to **HB 2104** be adopted; and the bill be passed as a amended.

Committee report to **HB 2141** be adopted; and the bill be passed as a amended.

Committee report to **HB 2044** be adopted; and the bill be passed as a amended.

Committee report to **HB 2158** be adopted; and the bill be passed as a amended.

Committee report to **HB 2182** be adopted; and the bill be passed as a amended.

Committee report to **HB 2192** be adopted; also, on motion of Rep. Brookens be amended on page 3, in line 10, by striking all after "rules"; in line 11, by striking all before the period and inserting " stated herein. After stopping, the driver or rider shall yield the right-of-way to any vehicle in or near the intersection or approaching on a roadway so closely as to constitute an immediate hazard during the time such driver or rider is moving across or within the intersection or junction of roadways. Such motorcycle or bicycle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection";

On motion of Rep. Wetta to amend **HB 2192**, the motion did not prevail. Also, on motion of Rep. Donohoe to amend, the motion did not prevail. Also, on motion of Rep. Dillmore to amend, the motion did not prevail; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2188** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2188," as follows:

"Substitute for HOUSE BILL NO. 2188

By Committee on Corrections and Juvenile Justice

"AN ACT concerning legislative bills; relating to fiscal notes and resolutions; amending K.S.A. 75-3715a and repealing the existing section."; and the substitute bill be passed.

(**Sub. HB 2188** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **HB 2069** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2069," as follows:

"Substitute for HOUSE BILL NO. 2069

By Committee on Judiciary

"AN ACT enacting the Kansas adverse medical outcome transparency act; concerning evidence in civil actions; expression of apology, sympathy, compassion or benevolent acts by health care providers or health care administrators not admissible as evidence of an admission of liability or as evidence of an admission against interest."; and the substitute bill be passed.

(**Sub. HB 2069** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **HB 2101** be amended on page 1, in line 23, by striking "30" and inserting "60"; in line 25, by striking "30-day" and inserting "60-day"; in line 29, by striking "30" and inserting "60";

On page 2, in line 3, by striking "30-day" and inserting "60-day"; in line 11, by striking all following "(e)"; by striking all in lines 12 through 19 and inserting "Any person appointed shall be a person of recognized integrity, character, ability, experience and judicial temperament, to the end that persons serving as judges of the court of appeals will be the best qualified therefor.";

On page 3, in line 5, by striking all following "(a) "; in line 6, by striking "June 30, 2011,"; in line 25, by striking "holding office on June 30, 2011"; following line 38, by inserting:

"Sec. 4. K.S.A. 20-3010 is hereby amended to read as follows: 20-3010. (a) Any person appointed to the office of judge of the court of appeals ~~pursuant to K.S.A. 20-3009 shall commence upon the duties of his or her office on the date such appointment takes effect, and any person so appointed shall have all the rights, privileges, powers and duties prescribed by law for the office of judge of the court of appeals. Any such judge who is so appointed to fill a vacancy or appointed by reason of the expiration of a term of office, shall serve until the second Monday in January following the next general election which occurs after one year in office and shall be eligible to succeed himself or herself be retained~~ in office for a full term of four (4) years as provided in K.S.A. 20-3006, ~~and amendments thereto~~, for the retention of judges first appointed to the court of appeals.

(b) If a majority of the votes cast and counted at such election is in favor of retaining such judge in office, ~~he or she~~ the judge shall remain in office for a regular term of four years from the second Monday in January next following such election. Thereafter, such judge shall be subject to retention in office as provided in K.S.A. 20-3006, ~~and amendments thereto~~. If a majority of the votes cast and counted at such election is against retaining such judge in office, such judge's position on the court of

appeals shall become vacant on the second Monday in January next following the election, and a successor shall be appointed pursuant to ~~K.S.A. 20-3007, 20-3008 and 20-3009 section 1, and amendments thereto~~. If such judge does not declare ~~his or her such judge's~~ candidacy for election to ~~succeed himself or herself be retained~~ in office, such judge's position on the court of appeals shall be vacant on the second Monday in January next following such election.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, following the first "and" by inserting "20-3010"; in line 4 by striking the fourth comma and inserting "and"; also in line 4, by striking "and 20-3010"; and the bill be passed as amended.

Social Services Budget Committee recommends **HB 2258** be amended on page 2, in line 4, by striking all after the comma; in line 5, by striking all before the period and by inserting "except that any exercise of these rights shall be without degradation, use or damage to the surface or any improvements thereto in any manner";

Also on page 2, in line 6, by striking "(c)" and by inserting "(d)"; in line 7, after "K.S.A." by inserting "2010 Supp."; also in line 7, by striking "76-6611" and inserting "75-6611"; in line 9, by striking "(d)" and inserting "(e)"; 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 bill was thereupon introduced and read by title:

HB 2362, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2012, June 30, 2013, and June 30, 2014, for the department of aging and the department of social and rehabilitation services; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Appropriations.

On motion of Rep. Siegfried, the House recessed until 3:45 p.m.

LATE AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

REPORTS OF STANDING COMMITTEES

Committee on **Elections** recommends **HB 2067** be amended on page 4, in line 25, by striking all after "(d)" by striking all in line 26; in line 27, by striking "name and address on the registration book, the"; and inserting "A"; in line 28, following "thereto" by inserting ", if:

- (1) The voter is unable or refuses to provide current and valid identification; or
- (2) the name and address of the voter provided on the application for an advance

voting ballot do not match the voter's name and address on the registration book";

On page 5, in line 4, by striking "mail in" and inserting "provide";

On page 8, in line 33, after "or" by inserting "a concealed carry of handgun or weapon license issued"; in line 33, by striking "weapon" and inserting "handgun"; in line 37, by striking "a" where it appears in for the second time; in line 38, by striking "public" and inserting "an accredited"; in line 38, after "institution" by inserting "of education"; in line 40, by striking "; and" and inserting a period; and by striking all of the lines 41 through 43;

On page 9, by striking all in line 1; by striking all in lines 28 through 43;

On page 10, by striking all in lines 1 through 9;

On page 11, in line 33, by striking "not transmit an"; and inserting "transmit a provisional";

On page 13, following line 41, by inserting "Sec. 7. K.S.A. 25-2203 is hereby amended as follows: 25-2203. (a) There is hereby established the state election board, the members of which shall be the lieutenant governor, the secretary of state and the attorney general. The state election board shall meet on the call of the secretary of state.

(b) The state election board shall:

(1) Adopt rules and regulations for determination of apportionment of election expenses among the subdivisions of government. Such rules and regulations shall identify and define the election expenses which are direct and those which are indirect, or shall define sufficient means of making determination thereof.

(2) assess information provided by any applicant for voter registration as evidence of citizenship pursuant to K.S.A. 25-2309(m), and amendments thereto; and

(3) ~~The state election board shall~~ make such additional rules and regulations as it deems advisable relating to payment of election expenses.";

On page 14, in line 5, after "the" by inserting "national"; in line 5, by striking "application prescribed by" and inserting "form"; in line 6, before "federal" by inserting "issued pursuant to";

On page 17, by striking all in line 20; in line 21, by striking "satisfactory evidence of United States citizenship" and inserting "accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship"; in line 23, by striking "(6)" and inserting "(13)"; in line 33, by striking all before "by" and inserting "issued";

On page 18, in line 11, by striking "or";

In line 13, by striking the period and by inserting ";

(7) the applicant's consular report of birth abroad of a citizen of the United States of America;

(8) the applicant's certificate of citizenship issued by the United States citizenship and immigration services;

(9) the applicant's certification of report of birth issued by the United States department of state;

(10) the applicant's American Indian card, with KIC classification, issued by the United States department of homeland security;

(11) the applicant's final adoption decree showing the applicant's name and United States birthplace;

(12) the applicant's official United States military record of service showing the applicant's place of birth in the United States; or

(13) an extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.

(m) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, such applicant may submit any evidence that such applicant believes demonstrates the applicant's United States citizenship.

(1) Any applicant seeking an assessment of evidence under this subsection may directly contact the elections division of the secretary of state by submitting a voter registration application or form as described by this section and any supporting evidence of United States citizenship. Upon receipt of this information, the secretary of state shall notify the state election board, as established under K.S.A. 25-2203, and amendments thereto, that such application is pending.

(2) The state election board shall give the applicant an opportunity for a hearing and an opportunity to present any additional evidence to the state election board. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing.

(3) The state election board shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the state election board shall be determined by a majority vote of the election board.

(4) If an applicant submits an application and any supporting evidence prior to the close of registration for an election cycle, a determination by the state election board shall be issued at least five days before such election date.

(5) If the state election board finds that the evidence presented by such applicant constitutes satisfactory evidence of United States citizenship, such applicant will have met the requirements under this section to provide satisfactory evidence of United States citizenship.

(6) If the state election board finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, such applicant shall have the right to appeal such determination by the state election board by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the state election board shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is a national of the United States."

And by redesignating the remaining subsections accordingly.

Also on page 18, following line 31, by inserting "(s) Nothing in this section shall prohibit an applicant from providing, or the secretary of state or county election officer from obtaining satisfactory evidence of United States citizenship, as described in subsection (1), at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the secretary of state or county election officer as required by this section.";

Also on page 18, following line 31, by inserting:

"Sec. 9. K.S.A. 25-2352 is hereby amended to read as follows: 25-2352. (a) (1) Each Kansas division of motor vehicles driver's license application and nondriver identification card application (including any renewal application) submitted to a division of motor vehicles office in Kansas shall serve as an application for voter registration unless the applicant fails to sign the voter registration application. An

individual who completes the application for voter registration and is otherwise eligible shall be registered to vote in accordance with the information supplied by the individual.

(2) An application for voter registration submitted under subsection (a)(1) shall be considered as updating any previous voter registration by the applicant.

(b) The voter registration section of the application:

(1) May require a second signature or other information that duplicates, or is in addition to, information in the driver's license or nondriver's identification card section of the application to prevent duplicate voter registrations, and to enable Kansas election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that specifies each eligibility requirement for voting, contains an attestation that the applicant meets each such requirement, including citizenship, and requires the signature of the applicant, under penalty of perjury;

(3) shall include a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;

(4) shall include a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes;

(5) shall be made available by the division of vehicles (as submitted by the applicant, or in machine-readable or other format) to the secretary of state and county election officers, as provided by rules and regulations adopted by the secretary of state; and

(6) shall be transmitted to the county election officer not later than five days after the date of acceptance.

(c) The motor vehicle driver's license and nondriver identification card form used for change of residence address shall also serve as a notification of change of residence address for voter registration for elections, unless the registrant states on the form that the change is not for voter registration purposes.

(d) The voter registration portion of the motor vehicle driver's license and nondriver identification card applications and change of address forms used shall be subject to approval by the secretary of state for purposes of voter registration under this section.

(e) Following the line fixed for the signature of the applicant on the application for voter registration, a statement shall be printed stating that the penalty for submission of a false voter registration application is a maximum presumptive sentence of 17 months in prison.

(f) The department of revenue or an employee of the department of revenue acting within the scope of the employee's employment shall not be liable for any damages resulting from any claim based on the department of revenue's transfer of any motor vehicle record information to the secretary of state that is required or permitted by law.

~~(f)~~(g) The secretary of state is hereby authorized to adopt such rules and regulations in the manner prescribed by law as may be necessary for the administration of the provisions of this section.";

And by renumbering sections accordingly;

On page 20, in line 39, by striking "at the polling place, or if the" and inserting ", the voter may vote a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto. If the voter's";

On page 21, in line 36, by striking "applicant" and inserting "voter"; in line 43, after "or" by inserting "a concealed carry of handgun or weapon license issued";

On page 22, in line 6, by striking "a public" and inserting "an accredited"; in line 7, after "institution" by inserting "of education"; by striking all in lines 10 through 16; in line 17, by striking "(3)"; and inserting "(2)"; in line 25, by striking "are" and inserting "have";

On page 26, in line 6, by striking "which involve an election crime, attempted election crime or"; in line 7, by striking "violation"; in line 12, by striking "an"; in line 13, by striking "action" and inserting "a prosecution"; also in line 13, by striking "which involves an election crime, attempted election"; in line 14, by striking "crime or violation"; in line 16, after "prosecution" by inserting "or proceeding"; in line 26, after "K.S.A." by inserting "25-2203, 25-2352,";

On page 1, in the title, in line 2, before "25-2411" by inserting "25-2203, 25-2352,"; and the bill be passed as amended.

Committee on **Government Efficiency** recommends **HB 2120** be amended on page 1, following line 20, by inserting "(c) The Kansas streamlining government act shall not apply to any fee-funded state agency. The Kansas streamlining government commission shall have no authority to review or make recommendations regarding any fee-funded state agency."; in line 36, by striking the period and inserting "; and

(g) "fee-funded state agency" means the abstracters' board of examiners, behavioral sciences regulatory board, board of accountancy, board of examiners in optometry, board of nursing, Kansas board of barbering, Kansas board of examiners in fitting and dispensing of hearing instruments, Kansas dental board, Kansas real estate commission, Kansas state board of cosmetology, office of the securities commissioner of Kansas, real estate appraisal board, state bank commissioner, state board of healing arts, state board of mortuary arts, the state board of pharmacy, state board of technical professions, state board of veterinary examiners, state department of credit unions and Kansas home inspectors registration board.";

On page 2, in line 18, by striking "five" and inserting "four"; in line 43, after "member" by inserting "shall be disqualified to serve as a member of the commission and"; also in line 43, by striking "within 10 days";

On page 3, in line 1, by striking "from" and inserting "effective on"; and the bill be passed as amended.

REPORT ON ENROLLED RESOLUTIONS

Sub. HR 6004 reported correctly enrolled and properly signed on February 21, 2011.

Also, **HCR 5003**, **HCR 5014** reported correctly enrolled and properly signed on February 22, 2011.

On motion of Rep. Siegfried, the House adjourned until 10:00 a.m., Wednesday, February 23, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

