

Journal of the House

THIRTY-FOURTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 3, 2011, 11:00 a.m.

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

The roll was called with 116 members present.

Reps. Fund, Kiegerl, Schwab and Smith were excused on verified illness.

Reps. C. Holmes and Powell were excused on legislative business.

Reps. Bollier, Pottorff and Spalding were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Mark Armstrong, Larkinburg Christian Church, guest of Rep. Kerschen:

The Kerschens, Dan and his wife, Norene, have a special bond with me and my wife, Kathleen, because their son, Jon, is married to our daughter, Emily. Our bond has grown deeper recently because on Valentine's Day, Jon and Emily welcomed into this world their first child—their daughter and our granddaughter, Abigail Kathryn Kerschen.

As we grandparents look into the eyes of little Abigail, and as you think of all the children in your own lives, it should become apparent that your most important constituents are all too young to vote.

As we bow our heads, we will let the words of Christ Himself guide us in our prayer this morning. Let us pray:

Dear Lord,

Jesus said, "*I praise you, Father, Lord of heaven and earth, because you have hidden things from the wise and learned, and revealed them to little children.*" May we never be so busy, Lord, that we cannot take time to listen and learn from the wisest of all people, our children.

Jesus said, "*Whoever humbles himself like this child is the greatest in the kingdom of heaven.*" Lord, let us learn from our children true humility, the ability to be overwhelmed with wonder, the joy that brings laughter to our souls, the ability to trust and hope and love without conditions.

Jesus said, "*Let the little children come to me, and do not hinder them, for the kingdom of God belongs to such as these.*" Dear Lord,

remind us that our most important duty is to improve and preserve this great state and nation for those who will inherit it. Humble us as we remember we are your stewards, and your kingdom belongs to the little children.

We thank you, Lord, for your countless blessings, and for the opportunities you give to us to serve you by serving our children, our families, and our communities in this great state of Kansas.

And most of all, we thank you for the gift of your child, Jesus Christ, for Jesus said, *“God so loved the world that he gave his one and only Son, that whoever believes in him shall not perish but have eternal life.”*

It is in His precious and holy name we pray, Amen.

The Pledge of Allegiance was led by Rep. Gordon.

Kansas Trivia Question – What Kansas cowtown was known as the “Border Queen?”
Answer: Caldwell

INTRODUCTION OF GUESTS

Rep. Rhoades introduced Wendy Schrag who is chair of the Kansas Kidney Coalition. The coalition is sponsoring blood pressure screening today. Rep. Rhoades presented her with a framed House certificate.

INTRODUCTION OF GUESTS

Rep. Vickrey introduced Susana Kingsley of Louisburg who is the 2011 Mrs. Kansas.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2367, AN ACT concerning schools; enacting the Kansas education liberty program act; providing for educational scholarships; authorizing a tax credit, by Committee on Taxation.

HB 2368, AN ACT concerning appropriations; relating to fee funds; abolishing certain credits to the state general fund; amending K.S.A. 1-204, 17-12a601, 17-2236, 17-5610, 17-5701, 20-1a02, 20-1a03, 49-420, 55-176, 55-609, 55-711, 55-901, 58-2011, 58-3074, 65-6b10, 65-1718, 65-1817a, 65-1951, 65-2011, 65-2855, 65-5413, 65-5513, 65-7210, 66-1,155, 66-1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704, 74-3903 and 74-7506 and K.S.A. 2010 Supp. 9-1703, 16a-2-302, 31-133a, 31-134, 36-512, 44-324, 44-926, 47-820, 55-155, 58-4107, 65-2911, 65-4024b, 65-6910, 65-7309, 74-50,188, 74-5805, 74-6708, 74-7009, 75-1119b, 75-1308, 75-1514, 75-3170a and 84-9-801 and repealing the existing sections; also repealing K.S.A. 75-3170, by Committee on Appropriations.

HB 2369, AN ACT concerning schools; relating to school buildings; amending K.S.A. 2010 Supp. 31-144 and repealing the existing section, by Committee on Appropriations.

HB 2370, AN ACT concerning the state fire marshal; abolishing the office thereof; transferring the duties and functions thereof to the division of facilities management of the department of administration, the Kansas bureau of investigation and the division of

emergency management of the office of the adjutant general; amending K.S.A. 19-1579, 19-4625, 21-4318, 31-134a, 31-135, 31-136, 31-139, 31-141, 31-143, 31-146, 31-147, 31-148, 31-150a, 31-155, 31-156, 31-165, 31-402, 36-132, 36-133, 36-134, 39-928, 39-929, 40-2,110, 48-928, 50-644, 55-1803, 55-1807, 55-1809, 55-1810, 55-1811, 55-1813, 65-429, 65-34,105, 75-1515 and 80-114 and K.S.A. 2010 Supp. 21-4201, 21-4217, 31-133, 31-133a, 31-134, 31-137, 31-140, 31-142, 31-144, 31-150, 31-159, 31-170, 31-501, 31-502, 31-503, 31-504, 31-505, 31-506, 31-602, 31-603, 31-604, 31-605, 31-606, 31-607, 31-608, 31-609, 31-611, 31-701, 31-702, 31-703, 31-705, 36-510, 39-925, 39-935, 39-938, 39-945, 40-252, 55-1812, 65-506, 65-508, 65-34,133, 65-34,136, 65-34,137, 65-5703, 74-4911f, 74-5602, 74-8841, 75-1508, 75-1514, 75-1517, 75-3170a, 75-36,102, 75-36,103, 76-327a, 76-7,105, 76-3319 and 77-618 and repealing the existing sections; also repealing K.S.A. 31-138, 31-157, 46-3201, 74-133, 75-1503, 75-1505, 75-1506, 75-1507, 75-1511, 75-1516, 75-3136 and 75-3137 and K.S.A. 2010 Supp. 74-49781, 75-1510, 75-1513 and 76-327f, by Committee on Appropriations.

HB 2371, AN ACT concerning community corrections; relating to grant programs; amending K.S.A. 2010 Supp. 75-5291 and 75-52,112 and repealing the existing sections, by Committee on Federal and State Affairs.

HOUSE CONCURRENT RESOLUTION No. **HCR 5023**—

By Committee on Energy and Utilities

A CONCURRENT RESOLUTION urging the United States Congress to preserve the primacy of the Kansas Corporation Commission to regulate hydraulic fracturing in compliance with state regulations and not to enact any future legislation that would remove this primacy.

WHEREAS, The Safe Drinking Water Act (SDWA) was originally passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply; and

WHEREAS, Since the 1974 enactment of the Safe Drinking Water Act, the Environmental Protection Agency (EPA) has never interpreted hydraulic fracturing as constituting "underground injection" within the definitions of the SDWA; and

WHEREAS, The United States 11th Circuit Court of Appeals ruled contrary to the argument of the EPA that hydraulic fracturing constituted "underground injection" under the SDWA, *Legal Environmental Assistance Foundation v. United States Environmental Protection Agency*, 118 F.3d 1467 (11th Cir. 1997); and

WHEREAS, In 2004, the EPA published a final report summarizing a study that evaluated the potential threat to underground drinking water sources from hydraulic fracturing of coal bed methane production wells and the EPA concluded that "the injection of hydraulic fracturing fluids into coal bed methane wells poses minimal threat" to underground sources of drinking water and that "additional or further study is not warranted at this time"; and

WHEREAS, Any federal rule-making concerning the states' sovereign right in permitting the quantity of water used for hydraulic fracturing would be outside the EPA's purview; and

WHEREAS, In the Energy Policy Act of 2005, the United States Congress explicitly exempted hydraulic fracturing from the provisions of the Safe Drinking Water Act; and

WHEREAS, Hydraulic fracturing is a proven technology with a long history of environmentally safe use in the completion of oil and gas wells; and

WHEREAS, The oil and gas producing states regulate hydraulic fracturing as a component of their regulatory programs for the drilling, completion, operation and plugging of oil and gas wells; and

WHEREAS, The reservoirs that produce oil and gas are highly variable geologically and separated geographically across the oil and gas producing states such that state regulatory agencies are best suited by local expertise and experience to effectively regulate hydraulic fracturing; and

WHEREAS, State regulatory agencies are the most appropriate regulatory bodies to provide oversight and protection of hydrologically and environmentally sensitive localities as they relate to hydraulic fracturing; and

WHEREAS, The SDWA was never intended to grant the federal government authority to regulate oil and gas drilling and production operations, such as "hydraulic fracturing," under the Underground Injection Control program; and

WHEREAS, The regulation of hydraulic fracturing under the Federal Safe Drinking Water Act would add burdensome and unnecessary regulatory requirements to the drilling and completion of oil and gas wells, thereby increasing costs of producing domestic natural gas resources without any ancillary benefit to public health, safety or the environment; and

WHEREAS, The increased cost of producing domestic natural gas resources will reduce domestic supplies of oil and natural gas, increase utility prices and other costs to consumers, reduce tax and royalty revenues for local, state and federal governments and increase the nation's dependence on foreign energy imports; and

WHEREAS, Domestic production of oil and natural gas will ensure that the United States continues on the path to energy security; and

WHEREAS, The Interstate Oil and Gas Compact Commission (IOGCC) conducted a survey of oil and gas producing states and set forth its opposition to federal regulation of hydraulic fracturing under the underground injection control program in Resolution 09.011, dated January 7, 2009, "Urging Congress Not to Remove Exemption of Hydraulic Fracturing from Provisions of the Safe Drinking Water Act"; and

WHEREAS, The states' public utility commissioners represented by The National Association of Regulatory Utility Commissioners adopted a similar resolution in July 2009: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we support continued jurisdiction of the states to conserve and properly regulate oil and gas production in their unique geological and geographical circumstances; and

Be it further resolved: That we urge the United States Congress to take such actions as are necessary to preserve and maintain the exemption from the Safe Drinking Water Act for hydraulic fracturing; and

Be it further resolved: That the Secretary of State provide an enrolled copy of this resolution to the Speaker of the United States House of Representatives, the Majority Leader of the United States House of Representatives, the Minority Leader of the United States House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate and to each member of the Kansas Congressional Delegation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Energy and Utilities: **HCR 5022**.

Taxation: **HB 2366**.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2269** from Committee on Appropriations and rereferral to Committee on Education.

COMMUNICATIONS FROM STATE OFFICERS

From Mike Michael, Deputy Director, State Employee Health Plan, Kansas Health Policy Authority, in accordance with **S. Sub. for HB 2160**, report on pilot program beginning with Plan Year 2011 providing coverage for orally administered anti-cancer medication.

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

On motion of Rep. Siegfried, the House adjourned pro forma until 9:00 a.m., Friday, March 4, 2011.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

