

Journal of the House

FORTIETH DAY

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

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

The roll was called with 121 members present.

Rep. Fund was excused on verified illness.

Reps. Montgomery, O'Hara and Peterson were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,
We come to the end of another week.
Thank you for Your faithfulness and grace.
Thank you for that which has been accomplished.
Thank you for the blessings You have given us.
Thank you for the protection You have provided for us.
Help us be diligent in the work we have before us today.
And as our members go their separate ways for the weekend,
give them safety in their travels and qualitative time with their families.
Renew their spirit with times of rest and relaxation,
and bring them back revived and rejuvenated
to continue the work that lies before them.
I also ask that You be with Representative Brown's
brother-in-law who is currently stranded in the Tokyo airport.
Protect him – give him a spirit of calmness –
and open the doors for his safe return.
In Your Son's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Davis.

Kansas Trivia Question – What Kansas town was first named Palmetto, after the symbol for South Carolina?

Answer: Marysville.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2382, AN ACT making and concerning appropriations for the fiscal years ending

June, 30, 2011, June 30, 2012, and June 30, 2013, for state agencies; 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.

HB 2383, AN ACT making and concerning appropriations for fiscal years ending June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016 for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2010 Supp. 2-223, 12-5256, 55-193, 72-8814, 75-2319, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections; also repealing section 138 of chapter 165 of the 2010 Session Laws of Kansas.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Federal and State Affairs: **HB 2380**.

Taxation: **HB 2378**, **HB 2379**, **HB 2381**.

Transportation: **HCR 5025**.

MESSAGE FROM THE SENATE

Announcing passage of **SB 152**, **SB 182**, **SB 185**, **SB 196**, **SB 213**, **SB 214**.

Announcing passage of **HB 2003**, **HB 2057**.

Announcing passage of **HB 2175**, as amended.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 152, **SB 182**, **SB 185**, **SB 196**, **SB 213**, **SB 214**.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HCR 5016, A CONCURRENT RESOLUTION urging the United States Congress to extend equal benefits and compensation for the treatment of Agent Orange exposure to Vietnam era veterans who served outside of Vietnam, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 6.

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, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Mosier, Moxley, O'Brien, O'Neal, Osterman, Otto,

Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, 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, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Fund, Kelley, Montgomery, O'Hara, Peterson, Rhoades.

The resolution was adopted, as amended.

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

COMMITTEE OF THE WHOLE

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

Recommended that on motion of Rep. Mah, **SB 67** be amended on page 2, in line 37, after "(i)" by inserting "(1)"; in line 39, by striking "either shall be";

On page 3, by striking all in lines 1 and 2; in line 4, by striking the colon; in line 5, by striking "(1)"; in line 6, by striking ": (A)" and inserting ", in"; in line 9, by striking "; or (B)" and inserting ", or"; by striking all in line 11 and inserting "deposit."; in line 14, after "(2)" by inserting "Any residual funds not otherwise obligated shall either be:

(A) Donated to any charitable organization which qualifies as a 501(c)(3) not-for-profit corporation under the federal internal revenue code; or

(B) shall be remitted to the state treasurer who shall deposit the entire amount in the state treasury and credit such money";

Also, on motion of Rep. Dillmore to rerefer **SB 67** to Committee on Elections, the motion did not prevail and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2318** be adopted; and the substitute bill be passed.

Committee report to **HB 2321** be adopted; and the bill be passed as amended.

On motion of Rep. Colloton, **HB 2339** be amended on page 69, in line 7, after "(6)" by inserting "knowingly and maliciously";

On page 72, in line 1, after "dog" by inserting ", with no requirement of culpable mental state";

On page 219, in line 17, by striking "the effective date of this act" and inserting "May 25, 2000";

On page 322, in line 43, after "21-3502," by inserting "prior to its repeal,";

On page 323, in line 1, after "Kansas," by inserting "and amendments thereto,"; in line 2, after "3503," by inserting "prior to its repeal,"; in line 3, after "Kansas," by inserting "and amendments thereto,"; also in line 3, after "21-3504," by inserting "prior to its repeal,"; in line 4, after "Kansas," by inserting "and amendments thereto,"; in line 5, after "21-3505," by inserting "prior to its repeal,"; in line 6, after "Kansas," by inserting "and amendments thereto,"; in line 7, after "21-3506," by inserting "prior to its repeal,"; in line 8, after "Kansas," by inserting "and amendments thereto,"; also in line 8, after "21-3602," by inserting "prior to its repeal,"; in line 10, after "Kansas," by inserting "and amendments thereto,"; also in line 10, after "21-3603," by inserting "prior to its repeal,"; in line 11, after "Kansas," by inserting "and amendments thereto,"; also

in line 11, by striking ", and"; in line 12, by striking all before the period;

On page 464, following line 3, by inserting:

"Sec. 285. Section 79 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 79. (a) Abuse of a child is knowingly:

(1) ~~Torturing, or cruelly beating or shaking~~ any child under the age of 18 years ~~which results in great bodily harm to the child;~~

(2) shaking any child under the age of 18 years which results in great bodily harm to the child; or

~~(2)~~(3) inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years.

(b) Abuse of a child is a severity level 5, person felony.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

Sec. 286. Section 228 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 228. (a) Unlawful conduct of cockfighting is:

(1) Causing, for amusement or gain, any gamecock to fight with or injure or kill another gamecock, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or

(3) training, grooming, preparing or medicating any gamecock with the intent of having it fight with or injure or kill another gamecock.

(b) Unlawful possession of cockfighting paraphernalia is possession of, with the intent to use in the unlawful conduct of cockfighting, spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.

(c) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring, whether or not the person knows or has reason to know that cockfighting is occurring on the premises.

(d) (1) Unlawful conduct of cockfighting is a level 10, nonperson felony.

(2) Unlawful possession of cockfighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.

(e) As used in this section, "gamecock" means a domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.

(f) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

Sec. 287. K.S.A. 2010 Supp. 21-36a03 is hereby amended to read as follows: 21-36a03. (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.

(b) Violation or attempted violation of subsection (a) is a drug severity level 1 felony. The provisions of subsection (d) of ~~K.S.A. 21-3304~~section 33 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance pursuant to this section.

(c) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision, or the defendant agrees to

participate in a licensed or certified drug treatment program.

(d) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.

(e) The sentence of a person who violates this section or K.S.A. 65-4159 prior to its repeal, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to such sections repeal, or K.S.A. 2010 Supp. 21-36a05, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 464, in line 4, by striking "Sec. 285." where it appears for the second time; in line 20, after "21-3608a," by inserting "21-36a03,,"; in line 39, after "Supp." by inserting "8-1567, as amended by section 3 of chapter 153 of the 2010 Session Laws of Kansas,,";

On page 465, in line 3, after "78," by inserting "79,,"; in line 4, after "225," by inserting "228,,";

On page 1, in the title, in line 11, after "75-5269;" by inserting "K.S.A. 2009 Supp. 8-1567, as amended by section 3 of chapter 153 of the 2010 Session Laws of Kansas,,"; in line 13, by striking "8-1567,,"; in line 15, after "21-3221," by inserting "21-36a03,,"; in line 33, after "78," by inserting "79,,"; in line 35, after "225," by inserting "228,,";

On page 2, in the title, in line 8, after "Supp." by inserting "8-1567,,"; and **HB 2339** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 123** be passed.

Committee on **Agriculture and Natural Resources** recommends **SB 124** be amended on page 2, in line 4, by striking "river" and inserting "water supply";

On page 3, in line 9, after "hill" by inserting "water supply"; in line 13, after "hill" by inserting "water supply";

On page 7, in line 26, by striking "irrigation"; also in line 26, after "special" by inserting "irrigation";

On page 8, in line 30, after "special" by inserting "irrigation"; in line 35, by striking "river"; and the bill be passed as amended.

Committee on **Energy and Utilities** recommends **HCR 5023** be adopted.

Committee on **Health and Human Services** recommends **HR 6011** be amended on page 1, in line 4, by striking "(“Obamacare”)"; in line 6, by striking "Obamacare" and inserting "The Patient Protection and Affordable Care Act"; in line 15, by striking "Obamacare; and" and inserting "the Patient Protection and Affordable Care Act; and"; in line 18, by striking "Obamacare" and inserting "the Patient Protection and Affordable Care Act"; in line 24, by striking "Obamacare's" and inserting "the Patient Protection and Affordable Care Act's"; in line 28, by striking "Obamacare" and inserting "the Patient Protection and Affordable Care Act";

On page 2, in line 5, by striking "Obamacare" and inserting "the Patient Protection and Affordable Care Act"; in line 8, by striking "Obamacare" and inserting "The Patient Protection and Affordable Care Act"; in line 22, by striking "Obamacare" and inserting "the Patient Protection and Affordable Care Act"; in line 27, by striking "Obamacare" and inserting "the Patient Protection and Affordable Care Act";

On page 1, in the title, in line 2, by striking "Obamacare." and inserting "the federal Patient Protection and Affordable Care Act.,"; and the resolution be adopted as amended.

REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

Request No. 57, by Representative Peck, Jr., congratulating Field-Kindley Memorial High School Debate Team for winning the 2011 Class 4A, 4 speaker state championship;

Request No. 58, by Representative Peck, Jr., congratulating Caney Valley high School Debate Team for winning the 2011 Class 3A-1A, 2 speaker state championship;

Request No. 59, by Representative Jim Kelly, congratulating Independence High School Debate Team for winning the 2011 Class 4A, 2 speaker state championship;

Request No. 60, by Representative Prescott, commending Bill and Kathy Kraus for their years of dedicated leadership and outstanding public service to the community of Burlingame;

Request No. 61, by Representative Wetta, congratulating John A. "Jack" Potucek, II for 40 years of dedicated service to local and state government;

Request No. 62, by Representative Donohoe, congratulating all team members and the coaching staff of the National High School Volleyball Team for winning the championship at St. James Academy;

Request No. 63, by Representative Vickery, congratulating Juanita Massey on her 100th birthday;

Request No. 64, by Representative Osterman, congratulating Andrea Hamersky on induction into Phi Theta Kappa;

Request No. 65, by Representative Osterman, congratulating Roberta Anis on induction into Phi Theta Kappa;

Request No. 66, by Representative Osterman, congratulating Morgan Cooper on induction into Phi Theta Kappa;

Request No. 67, by Representative Osterman, congratulating Myjaedah Ballard on induction into Phi Theta Kappa;

Request No. 68, by Representative Gregory, congratulating John and Bette Stefanik, II on their 50th wedding anniversary;

Request No. 69, by Representative Montgomery, congratulating Senior Police Officer Thomas Schatzle on twelve years of faithful service with the Olathe Police Department;

Request No. 70, by Representative Powell, congratulating Benjamin Hutchinson on being awarded the Eagle Scout Award;

Request No. 71, by Representative Swanson, congratulating Tony Fieze on his retirement from USD 473, Chapman Schools;

Request No. 72, by Representative O'Brien congratulating Jo Kissinger on being awarded the Gold Scout Award;

Request No. 73, by Representative Prescott congratulating Osage City High School on winning the 2011 3A State Volleyball Championship;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Siegfried, the committee report was adopted.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2384, AN ACT concerning civil procedure; relating to exercise of religion, by Committee on Federal and State Affairs.

HB 2385, AN ACT concerning school districts; creating the relevant efficient academic learning education act; amending K.S.A. 72-8233 and repealing the existing sections; also repealing K.S.A. 72-6406, 72-6408, 72-6411, 72-6415, 72-6416, 72-6418, 72-6419, 72-6420, 72-6422, 72-6423, 72-6424, 72-6427, 72-6429, 72-6432, 72-6436, 72-6437, 72-6444, 72-6446, 72-6447, 72-7105a, 72-8237 and 72-8238 and K.S.A. 2010 Supp. 72-3715, 72-3716, 72-6405, 72-6407, 72-6409, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6417, 72-6421, 72-6425, 72-6426, 72-6428, 72-6430, 72-6431, 72-6433, 72-6433d, 72-6434, 72-6434b, 72-6435, 72-6438, 72-6439, 72-6439a, 72-6441, 72-6442b, 72-6443, 72-6445a, 72-6448, 72-6449, 72-6450, 72-6451, 72-6452, 72-6453, 72-6454, 72-6455, 72-6456, 72-6457, 72-6458, 72-6459, 72-64b01, 72-64c03, 72-8248, 72-8249, 72-8250, 72-8254, 72-9509 and 72-9609, by Committee on Federal and State Affairs.

HB 2386, AN ACT concerning animal shelters; amending K.S.A. 47-1731 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2387, AN ACT concerning alcoholic beverages; relating to retailer's licenses under the Kansas liquor control act; amending K.S.A. 41-713 and 41-1101 and K.S.A. 2010 Supp. 41-102, 41-301, 41-303, 41-311, 41-313, 41-326 and 79-4108 and repealing the existing sections; also repealing K.S.A. 41-103, 41-308 and 41-711, by Committee on Federal and State Affairs.

HB 2388, AN ACT concerning housing; relating to the Kansas development finance authority; authorizing the issuance of mortgage revenue bonds; amending K.S.A. 74-8903 and 74-8912 and K.S.A. 2010 Supp. 74-8902, 74-8904 and 74-8905 and repealing the existing sections, by Committee on Appropriations.

REPORT ON ENGROSSED RESOLUTIONS

HCR 5016 reported correctly engrossed March 10, 2011.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Monday, March 14, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

