

# Journal of the House

FIFTY-SEVENTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, May 2, 2011, 1:00 p.m.

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

The roll was called with 119 members present.

Reps. Aurand, Brunk, Gordon, Kelley and Peck were excused on excused absence by the Speaker.

Present later: Reps. Gordon and Kelley.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
Earlier today we celebrated and honored  
the life of our friend and colleague, Rocky Fund.  
It is at moments such as this  
that we are reminded that our lives  
are like a mist that appears for a little while  
and then vanishes.  
We are compelled to take a look at our priorities  
in order to redeem our time here on earth.  
We are challenged to devote our time and energy  
to things that make an impact not only  
in the temporal, but also for eternity.  
So, today, Lord, I ask that Your Spirit  
will gently nudge our leaders to remind them to  
speak and act kindly, choose their battles,  
express appreciation to one another,  
stand for their convictions –  
to work diligently – play heartily  
and love unconditionally.  
In Your Son's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Collins.

Kansas Trivia Question – The Republican River was named long before there was a Republican Party. What is the source of the name?

Answer: French explorers called the Kitkehahki branch of the Pawnees the Republican Pawnee and named the river for them.

**MESSAGE FROM THE GOVERNOR**

May 2, 2011

*Message to the House of Representatives of the State of Kansas:*

Enclosed herewith is Executive Order No. 11-08 for your information

EXECUTIVE ORDER 11-08  
 Conditional and Temporary Relief  
 from Motor Carrier Rules and Regulations

SAM BROWNBACK  
*Governor*

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

**COMMUNICATIONS FROM STATE OFFICERS**

From William V. Minner, Executive Director, Kansas Human Rights Commission, pursuant to K.S.A. 44-1004 (13), Annual Report, Fiscal Year, 2010, July 1, 2009-June 30, 2010.

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

**MESSAGE FROM THE SENATE**

The Senate concurs in House amendments to **SB 170**, and requests return of the bill. Announcing passage of **HB 2392**.

The Senate adopts conference committee report on **S. Sub. for HB 2049**.

The Senate adopts conference committee report on **HB 2119**.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2314**, AN ACT concerning drainage district No. 2 of Finney county, Kansas; pertaining to the election of directors; amending K.S.A. 24-412 and K.S.A. 2010 Supp. 24-139a and 24-409 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, 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, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelly, Kerschen, Kiegerl, Kinzer, Kleebe, 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, 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, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, Gordon, Kelley, Peck.

The bill passed, as amended.

**SB 97**, AN ACT concerning courts; relating to court fees and costs; relating to the judicial branch surcharge fund; docket fees for expungement of records; amending Section 254 of chapter 136 of the 2010 Session Laws of Kansas and K.S.A. 2010 Supp. 8-2107, 8-2110, 22-2410, 23-108a, 28-170, 28-172a, 28-177, 28-178, 38-2215, 38-2312, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 89; Nays 30; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Bruchman, Burgess, Burroughs, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Donohoe, Fawcett, Finney, Flaharty, Frownfelter, Goico, Gonzalez, Grange, Gregory, Hayzlett, Hedke, Henderson, Hermanson, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelly, Kerschen, Kiegerl, Kinzer, Kleebe, Knox, Kuether, Mah, Mast, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peterson, Pottorff, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Schroeder, Seiwert, Shultz, Sloan, Smith, Spalding, Trimmer, Vickrey, Victors, Ward, Weber, Wetta, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Brown, Carlin, Dillmore, Feuerborn, Garber, D. Gatewood, S. Gatewood, Goodman, Grant, Grosserode, Henry, Hildabrand, Huebert, Landwehr, Lane, Loganbill, McCray-Miller, O'Brien, Phelps, Powell, Scapa, Schwab, Schwartz, Siegfried, Slattery, Suellentrop, Swanson, Tietze, Tyson, Williams.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, Gordon, Kelley, Peck.

The bill passed, as amended.

## REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2396** be passed.

Committee on **Energy and Utilities** recommends **HR 6024**, **HR 6025** be adopted, and because the committee is of the opinion that the resolutions are of a noncontroversial nature, be placed on the consent calendar.

## INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6027**—

By Committee on Energy and Utilities

A RESOLUTION urging modifications to the National Broadband Plan for the benefit of rural residents of Kansas.

WHEREAS, Residents of this state living in rural areas deserve and expect the same

high-quality, affordable communications services that are available to their urban neighbors; and

WHEREAS, Similar to businesses in urban areas, rural businesses, farmers and ranchers compete in the global marketplace and depend on affordable access to robust broadband services to market and sell their products around the world; and

WHEREAS, Children living in rural areas should have the same educational opportunities as their urban counterparts, and high-speed internet access is absolutely necessary to allow these students opportunities for advanced learning through distance education; and

WHEREAS, Residents living in rural areas face unique health care challenges because of the distances that must be traveled to seek basic and advanced medical care, and telemedicine delivered via broadband networks can improve the health of rural residents by reducing the time and travel needed for high-quality health care; and

WHEREAS, Many rural areas encounter significant challenges in pursuing and sustaining economic development plans that bring quality, higher-paying jobs to their communities, and insufficiently robust broadband speeds will further hamper the economic development needs of many rural communities; and

WHEREAS, The United States Department of Agriculture has rightfully placed significant importance on the need for broadband access in rural America to improve quality of life and economic development; and

WHEREAS, Communications providers that serve this state's rural areas have worked diligently to ensure that their consumers have access to affordable and reliable broadband services and have utilized the United States Department of Agriculture's Rural Utilities Service loan and grant programs for economic development; and

WHEREAS, Contrary to the progress rural communications providers have had in deploying broadband, the Federal Communications Commission is embarking on a National Broadband Plan that will negatively impact the ability of residents living in rural areas of this state to realize the true benefits of access to robust broadband speeds by limiting support to four megabits per second in rural, high-cost areas of the country, while calling for one hundred million urban homes to have access to broadband speeds at 100 megabits per second by 2020; and

WHEREAS, The National Broadband Plan runs counter to the federal universal service policy which ensures access to communications services at comparable rates regardless of the consumer's location: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we challenge the Federal Communications Commission to make substantive change to the National Broadband Plan so that the plan develops a universal service support mechanism that ensures accountability, promotes stability, provides efficient and effective incentives for broadband network deployment and operation and encourages broadband adoption by keeping broadband service affordable. The plan should also ensure high-quality service by linking funding to satisfying reasonable, but meaningful, carrier of last resort obligations. Consistent with the universal service principles in federal law, the plan should ensure that rural and urban consumers pay reasonably comparable rates for reasonably comparable services by providing adequate support in high-cost areas; and

*Be it further resolved:* That we urge the members of the Kansas Congressional Delegation, the Secretary of the United States Department of Agriculture and the

Administrator of the Rural Utilities Service to work with the Federal Communications Commission to ensure that commissioners understand the importance of robust broadband deployment to rural Americans and how the current draft of the National Broadband Plan needs to be dramatically altered to ensure quality broadband service availability throughout the country; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to provide an enrolled copy of this resolution to the commissioners of the Federal Communications Commission, the members of the Kansas Congressional Delegation, the Secretary of the United States Department of Agriculture, the Administrator of the Rural Utilities Service, the Chief Technology Officer in the White House Office of the Science and Technology Policy and the Governor of Kansas.

### COMMITTEE ASSIGNMENT CHANGE

Speaker O'Neal announced the appointment of Rep. Powell as a member of the Committee on Appropriations to replace Rep. Peck for Monday, May 2.

On motion of Rep. Siegfried, the House recessed until 3:30 p.m.

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### LATE AFTERNOON SESSION

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

### MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **HB 2044**.

The Senate adopts conference committee report on **HB 2312**.

### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2119**, submits the following report:

The House accedes to all Senate amendments to the bill and your committee on conference further agrees to amend this bill as printed with Senate Committee of the Whole amendments as follows:

On page 2, in line 36, by striking "the" where it appears for the first time;

On page 3, in line 1, after "response" by inserting "service"; in line 4 by striking "service" and inserting "services"; by striking all in lines 16 through 43;

By striking all in pages 4 through 22;

On page 23, by striking all in lines 1 through 14 and inserting:

"Sec. 3. K.S.A. 8-305 is hereby repealed";

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all after "concerning"; by striking all in lines 4 through 9 and inserting "political subdivisions; pertaining to accident response service fees; pertaining to marking of motor vehicles; amending K.S.A. 8-305 and repealing the existing section.";

And your committee on conference recommends the adoption of this report.

RUTH TEICHMAN  
 TY MASTERSON  
 ALLEN C. SCHMIDT

*Conferees on part of Senate*

STEVE HUEBERT  
 JOE SEIWERT  
 ANN E. MAH

*Conferees on part of House*

On motion of Rep. Huebert, the conference committee report on **HB 2119** was adopted.

On roll call, the vote was: Yeas 118; Nays 1; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, 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, Kiegerl, 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, 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, K. Wolf, Wolfe Moore, Worley.

Nays: Arpke.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, Davis, Peck, Peterson.

#### **MOTIONS TO CONCUR AND NONCONCUR**

On motion of Rep. Huebert, the House concurred in Senate amendments to **HB 2195**, AN ACT concerning municipalities; establishing the organized collection service act.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 99; Nays 20; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bowers, Brookens, Bruchman, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Colloton, Crum, DeGraaf, Denning, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, Gonzalez, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelly, Kerschen, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, McCray-Miller, McLeland, Meier, Meigs, Mesa, Mosier, Moxley, O'Neal, Osterman, Otto, Patton, Pauls, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer,

Vickrey, Victors, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Bollier, Boman, Brown, Collins, Dillmore, Donohoe, S. Gatewood, Goico, Goodman, Kelley, Kiegerl, Kinzer, Mast, Montgomery, O'Brien, O'Hara, Scapa, Tyson, Ward, Weber.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, Davis, Peck, Peterson.

On motion of Rep. Huebert, the House concurred in Senate amendments to **HB 2240**, AN ACT concerning cemetery corporations; relating to cemetery merchandise trust contracts; relating to the permanent maintenance fund; amending K.S.A. 16-320, 16-321, 16-322, 16-323, 16-325, 16-328, 16-329, 16-331, 16-332, 16-333, 16-334, 17-1311, 17-1311a, 17-1312, 17-1312a, 17-1312d, 17-1312e, 17-1312g and 17-1366 and repealing the existing sections; also repealing K.S.A. 16-324.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 109; Nays 10; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, D. 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, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Neal, Osterman, Otto, Patton, Pauls, 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, Vickrey, Victors, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Dillmore, Donohoe, Garber, S. Gatewood, Kelley, Landwehr, Meier, O'Hara, Tyson, Ward.

Present but not voting: None.

Absent or not voting: Aurand, Brunk, Davis, Peck, Peterson.

## REPORT ON ENGROSSED BILLS

**HB 2151, HB 2172** reported correctly engrossed April 28, 2011.

**HB 2105, HB 2147** reported correctly re-engrossed April 28, 2011.

Also, **HB 2020, HB 2282** reported correctly engrossed April 29, 2011.

**S. Sub. for HB 2133; Sub. HB 2271** reported correctly re-engrossed April 29, 2011.

On motion of Rep. Siegfried, the House adjourned until 10:00 a.m., Tuesday, May 3, 2011.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

