

Journal of the House

THIRTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, March 8, 2011, 11:00 a.m.

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

The roll was called with 119 members present.

Reps. Fund and Kiegerl were excused on verified illness.

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

Reps. McLeland and Peterson were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Father God,
 You ask for our hands that You might use them for Your purpose;
 give us strength to not withdraw them when the work is hard.
 You ask for our mouths to speak against injustice;
 help us not to whisper for fear of accusation.
 You ask for our lives that You may work through us;
 may we not pull away to avoid getting too involved.
 Forgive us when we are tempted to serve You
 only when it is convenient for us
 in places where we consider it safe,
 and only for those who make it easy to do so.
 Lord, as we come into the Lenten season we ask the following:
 Forgive us, renew us, heal us, nurture us and empower us.
 Use us as an instrument of Your peace
 that we may seriously be servant-leaders.
 In Christ's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Swanson.

Kansas Trivia – Neosho County formerly was called Dorn County. Why did residents change its name?

Answer: Because Major Jackson Dorn, for whom the county was originally named, joined the Confederacy during the Civil War.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2374**.

Insurance: **HB 2373**.

MESSAGE FROM THE GOVERNOR

March 4, 2011

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

Enclosed herewith is Executive Order No. 11-04 for your information.

EXECUTIVE ORDER NO. 11-04
Concerning Employment Policies
Implemented by Human Resource Departments

SAM BROWNBACK
Governor

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

MESSAGE FROM THE GOVERNOR

March 4, 2011

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

Enclosed herewith is Executive Order No., 11-05 for your information.

EXECUTIVE ORDER NO. 11-05
Concerning the Appointment of The Adjutant General
as Homeland Security Advisor

SAM BROWNBACK
Governor

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

MESSAGE FROM THE SENATE

Announcing passage of **Sub. SB 72; SB 101, SB 114, SB 193**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

Sub. SB 72; SB 101, SB 114, SB 193.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6014**—

By Representative Bethell, Alford, Arpke, Aurand, Ballard, 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, Fund, 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, 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, K. Wolf, B. Wolf, Wolfe Moore and Worley

A RESOLUTION in memory of Richard "Dick" Wellman.

WHEREAS, Richard Gale Wellman, 89, of Alden, died on January 26, 2011. A former Kansas legislator, he served in the House of Representatives from 1957 to 1961; and

WHEREAS, Mr. Wellman was born on February 25, 1921 in Sterling, Kansas, the son of Edward Chauncey Wellman and Jessie Cochrane Coyle Wellman. He attended Sterling public schools, graduated high school in 1939, and attended Kansas State College, where he was a member of the Sigma Phi Epsilon fraternity and graduated with a bachelor's degree in agriculture in 1942; and

WHEREAS, Mr. Wellman served his country during World War II as a member of the U.S. Navy. He served on board the USS Macomb, a destroyer, in the Arctic, North Atlantic, and the Mediterranean and on board the USS Hampton, an attack transport, in the western Pacific, the Philippines and the China Seas. He was honorably discharged with the rank of Lieutenant, junior grade; and

WHEREAS, After World War II, Mr. Wellman returned to rural Rice County and spent the next 50 years farming and ranching. Upon his retirement, he wrote two books, "Crazy Over Horses" and "White Elk Speaks"; and

WHEREAS, Mr. Wellman recognized the importance in preserving the history of Kansas. He was a former director of the Kansas State Historical Society, and a past president of the Native Sons of Kansas and the Rice County Historical Society. He also participated in a World War II veterans oral history project, recounting his stories and experiences for the benefit of future generations of Kansans; and

WHEREAS, Mr. Wellman was active in his community and in various organizations. He served on the Alden school board, and was also a member of Kansas Explorers, the American Legion, the Kanza Car Club and the Hole in the Wall Gang. His membership in the Hole in the Wall Gang was of particular importance to Mr. Wellman. He formed many lifelong relationships with many of the Gang's members and guests as together they embraced the spirit of the old American West; and

WHEREAS, Mr. Wellman married Myrtle Emily Belden on December 20, 1946 and she preceded him in death on September 19, 1985. He married JoAnn Schmidt Green on June 22, 1989 and she preceded him in death on April 15, 1998. Mr. Wellman is survived by his children, Emily Wellman, Greg Wellman, Brad Wellman, Alan Wellman, Anne Browne, Jim Green and Tom Green, four grandchildren and five great-grandchildren; and

WHEREAS, Mr. Wellman will be remembered for his dedicated service to his country, state and community: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we honor Richard G. Wellman for his great work in the House of Representatives and extend our deepest sympathy to his family and friends; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send eight enrolled copies of this resolution to Representative Bethell.

On motion of Rep. Siegfroid, the House resolved into the Committee of the Whole, with Rep. Rhoades in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2107** be adopted; also, roll call was demanded on motion of Rep. Aurand to amend on page 9, following line 4, by inserting:

"New Sec. 13. (a) No sexually oriented business, as defined by section 3, and amendments thereto, shall be conducted on the premises of any lottery gaming facility or any racetrack gaming facility.

(b) This section shall be part of and supplemental to the Kansas expanded lottery act.";

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "relating to prohibitions on lottery gaming facilities and racetrack gaming facilities;"

On roll call, the vote was: Yeas 55; Nays 63; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alford, Aurand, Ballard, Bethell, Bowers, Burgess, Burroughs, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Gordon, Grant, Grosserode, Hayzlett, Henderson, Henry, Hildabrand, Hill, Hineman, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Otto, Pauls, Phelps, Powell, Prescott, Proehl, Roth, Ruiz, Ryckman, Schwab, Schwartz, Slattery, Sloan, Smith, Spalding, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, Wolfe Moore.

Nays: Arpke, Billinger, Bollier, Boman, Brookens, Brown, Bruchman, Brunk, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Garber, Goico, Gonzalez, Goodman, Grange, Gregory, Hedke, Hermanson, Hoffman, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, KleeB, Knox, Mast, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Patton, Peck, Pottorff, Rhoades, Rubin, Scapa, Schroeder, Seiwert, Shultz, Siegfroid, Suellentrop, Swanson, Tyson, Vickrey, Weber, B. Wolf, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Fawcett, Fund, C. Holmes, Kiegerl, Landwehr, McLeland, Peterson.

The motion of Rep. Aurand did not prevail.

Also, on motion of Rep. D. Gatewood to amend **HB 2107**, Rep. Knox requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. Grant challenged the ruling, the question being "Shall the Rules Chair be sustained?" Roll call was demanded.

On roll call, the vote was: Yeas 84; Nays 34; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alford, Arpke, Aurand, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hill, Hineman, Hoffman, M. Holmes, Howell, Huebert, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Landwehr, Mast, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Patton, Pauls, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Smith, Spalding, Swanson, Tyson, Vickrey, Weber, B. Wolf, K. Wolf, Worley.

Nays: Ballard, Burroughs, Calloway, Carlin, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Otto, Phelps, Ruiz, Slattery, Suellentrop, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Fawcett, Fund, C. Holmes, Johnson, Kiegerl, McLeland, Peterson.

The Rules Chair was sustained.

Also, on motion of Rep. Prescott to amend **HB 2107**, the motion did not prevail. Also, on motion of Rep. Knox to amend, the motion did not prevail.

Also, on motion of Rep. Patton, **HB 2107** be amended on page 6, following line 2, by inserting "(1) Any offense set forth in K.S.A. 21-3502, 21-3503, 21-3504, 21-3505, 21-3506, 21-3507, 21-3508, 21-3510, 21-3511, 21-3512, 21-3513, 21-3515, 21-3516, 21-3517, 21-3518, 21-3520, 21-3522 or 21-3523, prior to their repeal"; following line 5, by inserting "(3) any offense set forth in K.S.A. 21-4301, 21-4301a, 21-4301b or 21-4031c, prior to their repeal;"

and renumbering paragraphs accordingly; and **HB 2107** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HR 6009** be amended by substituting a new resolution to be designated as "Substitute for HOUSE RESOLUTION NO. 6009," as follows:

"Substitute for HOUSE RESOLUTION NO. 6009

By Committee on Agriculture and Natural Resources

A RESOLUTION urging the U.S. Army Corps of Engineers to accept "Life of the Project" conservation easements."; and the substitute resolution be adopted.

(**Sub. HR 6009** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **HB 2161** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2161," as follows:

"Substitute for HOUSE BILL NO. 2161

By Committee on Taxation

AN ACT concerning sales taxation; relating to situs of taxable transactions; sourcing of certain retail sales; amending K.S.A. 2010 Supp. 12-191 and 79-3669 and repealing the existing sections."; and the substitute bill be passed.

(**Sub. HB 2161** was thereupon introduced and read by title.)

REPORT ON ENROLLED RESOLUTIONS

HCR 5021 reported correctly enrolled and properly signed on March 7, 2011.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Wednesday, March 9, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

