

Journal of the House

TWENTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 7, 2012, 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. Grant, Kuether and Tietze were excused on verified illness.

Rep. Fawcett was excused on legislative business.

Reps. Collins and Henderson were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Dear Lord,

These things I specifically pray for today for these leaders:

strength and stamina to endure the long days;

wisdom and discernment to make the right choices;

a sense of humor and lightheartedness to lessen the tension;

kind words and actions to avoid hostility;

patience and gentleness when responding to constituents and each other;

and a peace and understanding that only comes from You.

And if all else fails—remind them of Your unfailing love for them...

that thought alone is enough to help them

through anything life throws their way.

In Your Son's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Meier.

Kansas Trivia Question – What famous Oklahoma television minister got his start preaching in Kinsley?

Answer: Oral Roberts

PERSONAL PRIVILEGE

There being no objection, the following remarks of Rep. Bowers are spread upon the Journal:

2012 has been designated “International Year of Cooperatives” globally, and here in Kansas, Governor Brownback has proclaimed 2012 as the “Year of Cooperatives” as well. Cooperatives are member-owned, member-controlled business’ where profits are returned to patrons based on the volume of business conducted with the co-op.

The co-op business model is adaptable to nearly every sector of our economy. In

Kansas, the success of the business model is evident in every county in our state through more than 239 individual cooperatives doing business in our state as credit unions, rural electric and telecommunications providers, consumers and grocery cooperatives, housing co-ops, Farm Credit associations, and grain and farm supply cooperatives.

The “Year of Cooperatives” theme – Cooperative Enterprises Build a Better World” emphasizes how cooperative businesses positively influence members lives and the communities around them. By meeting member needs, cooperatives provided light to rural Kansas, opened marketing opportunities for ag producers, brought financing options to communities, and increased housing and grocery choices. Co-op are also vital community members contributing to youth programs, supporting charitable initiatives, and providing good jobs all across our state. Our Kansas cooperatives are carrying forward on the mission to build better communities, a better state and to better the world around them.

It is my pleasure to recognize the “Year of Cooperatives” and our co-ops across Kansas. We have several cooperative members in the statehouse today - the Kansas Credit Union Association’s Day at the Capitol and members of the KCUA and Kansas Cooperative Council in the gallery this morning.

The House Certificate requested by Representative Michael O’Neal reads:

Be it hereby known to all that: Sincere congratulations are offered to ALL KANSAS COOPERATIVES for contributing to the success of individuals and communities across the state and for helping to build a better state and world commemorating The “International year of Cooperatives” – 2012. The entire membership extends it very best wishes on this memorable achievement and continued success.

Again, congratulations to all our Kansas cooperatives as we celebrate the “Year of Cooperatives” today and throughout 2012.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2640, AN ACT concerning state employees; relating to longevity bonus payments; amending K.S.A. 2011 Supp. 75-5541 and repealing the existing section, by Committee on Appropriations.

HB 2641, AN ACT concerning county appraisers; providing for the election of county appraisers; amending K.S.A. 19-425, 19-432, 19-433, 19-434, 19-435, 75-5105a, 79-1412a and 79-1455 and K.S.A. 2011 Supp. 25-101, 25-213, 25-611, 79-1476 and 79-1479 and repealing the existing sections; also repealing K.S.A. 19-426, 19-428, 19-430 and K.S.A. 2011 Supp. 19-431, by Representative LeDoux.

HB 2642, AN ACT concerning oil and gas; relating to applications to drill; amending K.S.A. 2011 Supp. 55-151 and repealing the existing section, by Committee on Energy and Utilities.

HB 2643, AN ACT concerning water; relating to reservoir improvement districts, by Committee on Joint Committee on Energy and Environmental Policy.

HB 2644, AN ACT providing for a change in terminology in the statutes from the term mental retardation and similar terms to the term intellectual disability and similar terms; amending K.S.A. 17-1762, 19-4001, 19-4002, 19-4002a, 19-4002b, 19-4003, 19-4004, 19-4005, 19-4007, 19-4009, 19-4010, 19-4011, 39-927, 39-971, 39-1001, 39-1002, 39-1005, 39-1006, 39-1007, 39-1201, 39-1202, 39-1205, 39-1207, 39-1803, 58-

24a16, 59-2946, 59-2972, 59-3077, 65-5a14, 65-3501, 65-4202, 65-4212, 65-4411, 65-4412, 65-4413, 65-4414, 65-4415, 65-5601, 72-6203, 74-8917, 75-4375, 75-5399, 75-6508, 76-12b01, 76-12b02, 76-12b03, 76-12b07, 76-12b11 and 76-17c01 and K.S.A. 2011 Supp. 12-1675, 21-5417, 21-6622, 39-923, 39-936, 39-1401, 39-1702, 40-3401, 50-676, 65-180, 65-1124, 65-1626, 65-4915, 65-4921, 65-6805, 72-962, 74-5344, 75-4265, 75-5321a, 75-6506, 75-6609, 75-6610, 75-7303 and 79-3606 and repealing the existing sections; also repealing K.S.A. 2011 Supp. 79-3606g, by Representatives Rhoades and Schroeder.

HB 2645, AN ACT concerning schools; relating to personal financial literacy courses; amending K.S.A. 72-1103 and K.S.A. 2011 Supp. 72-7535 and repealing the existing sections, by Committee on Education.

HB 2646, AN ACT concerning cities; relating to abandoned property and qualifications thereof; amending K.S.A. 2011 Supp. 12-1750 and repealing the existing section, by Committee on Local Government.

HB 2647, AN ACT concerning personal and real property; relating to the self-service storage act; amending K.S.A. 58-817 and repealing the existing section, by Committee on Judiciary.

HB 2648, AN ACT concerning crimes, punishment and criminal procedure; relating to expungement; conviction or adjudication of abuse of a child; amending K.S.A. 2011 Supp. 21-6614 and 38-2312 and repealing the existing sections; also repealing K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c, 38-2312a and 38-2312b, by Committee on Judiciary.

HB 2649, AN ACT repealing K.S.A. 24-105, 82a-312, 82a-313 and 82a-314 and K.S.A. 2011 Supp. 82a-735; concerning water, by Committee on Government Efficiency.

HB 2650, AN ACT concerning the executive branch chief information technology officer; relating to duties; renaming the division of information systems and communications; amending K.S.A. 48-937, 65-6138, 65-6139, 65-6140, 74-9302, 74-9303, 74-9306, 74-9605, 75-37,102, 75-4701, 75-4702, 75-4702c, 75-4704, 75-4704b, 75-4705, 75-4710, 75-4712, 75-4713, 75-4714, 75-4715, 75-4716, 75-6512 and 76-389 and K.S.A. 2011 Supp. 46-1503, 74-9304, 75-3707e, 75-4703, 75-4704a, 75-4709, 75-7202, 75-7204, 75-7205 and 75-7224 and repealing the existing sections, by Committee on Government Efficiency.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and ERO were referred to committees as indicated:

Agriculture and Natural Resources: **SB 272, SB 289.**

Appropriations: **SB 294.**

Commerce and Economic Development: **HB 2637, HB 2638.**

Corrections and Juvenile Justice: **SB 249, SB 279.**

Education: **SB 258, HB 2634.**

Federal and State Affairs: **SB 270, SB 274, SB 275.**

Financial Institutions: **SB 265.**

Government Efficiency: **ERO 41.**

Health and Human Services: **SB 290, SB 303, HB 2633.**

Insurance: **SB 264, SB 266.**

Judiciary: **SB 280, SB 291, SB 292, SB 293, SB 297, HB 2636.**

Local Government: **SB 207, HB 2639.**

Pensions and Benefits: **SB 259.**

Taxation: **HB 2635.**

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6009**—

By Representatives O'Brien, Arpke, Calloway, Garber, Goodman, Gregory, Grosserode, M. Holmes, Huebert, Kelley, Knox, Mast, Meigs, O'Hara and Scapa

A RESOLUTION urging the United States Congress to adopt the parental rights amendment, a joint resolution proposing an amendment to the Constitution of the United States relative to parental rights.

WHEREAS, The right of parents to direct the upbringing and education of their children is a fundamental right protected by the Constitution of the United States and the state of Kansas; and

WHEREAS, Our nation has historically relied first and foremost on parents to meet the real and constant needs of children; and

WHEREAS, The interests of children are best served when parents are free to make child-rearing decisions about education, religion and other areas of a child's life without state interference; and

WHEREAS, The United States Supreme Court in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), held that "This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"; and

WHEREAS, The United States Supreme Court in *Troxel v. Granville*, 530 U.S. 57 (2000), however, produced six different opinions on the nature and enforceability of parental rights under the Constitution of the United States; and

WHEREAS, This decision created confusion and ambiguity about the fundamental nature of parental rights in the laws and society of the several states; and

WHEREAS, Representative John Fleming of the state of Louisiana introduced House Joint Resolution 3 in the United States House of Representatives, proposing an amendment to the Constitution of the United States to prevent erosion of the enduring American tradition of treating parental rights as fundamental rights, which reads as follows:

"Section 1. The liberty of parents to direct the upbringing and education of their children is a fundamental right.

Section 2. Neither the United States nor any State shall infringe upon this right without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.

Section 3. No treaty may be adopted nor shall any source of international law be employed to supersede, modify, interpret, or apply to the rights guaranteed by this article."; and

WHEREAS, This amendment will add explicit text to the Constitution of the United States to protect in perpetuity the rights of parents as they are now enjoyed, without substantive change to current state or federal laws respecting these rights; and

WHEREAS, Such enumeration of these rights in the text of the Constitution of the

United States will preserve them from being infringed upon by the shifting ideologies and interpretations of the United States Supreme Court: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That the Congress of the United States is urged to adopt and submit to the states for ratification the Parental Rights Amendment to the Constitution of the United States proposed by Representative John Fleming in House Joint Resolution 3; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send an enrolled copy of this resolution to the President of the Senate, each member of the United States Senate, the speaker of the United States house of Representatives and each member of the United States House of Representatives.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2298** be passed.

Committee report to **HB 2460** be adopted; and the bill be passed as amended.

Committee report to **HB 2446** be adopted; also, on motion of Rep. Hedke to amend, the motion did not prevail.

Also, on motion of Rep. Knox to amend **HB 2446**, Rep. Dillmore requested the question be divided. Rep. Dillmore subsequently withdrew his request. The question reverted back to the motion of Rep. Knox and **HB 2446** be amended on page 2, following line 9, by inserting:

"Sec. 2. K.S.A. 2011 Supp. 66-1258 is hereby amended to read as follows: 66-1258. (a) The commission shall establish by rules and regulations a portfolio requirement for all affected utilities to generate or purchase electricity generated from renewable energy resources or purchase renewable energy credits. For the purposes of calculating the capacity from renewable energy credit purchases, the affected utility shall use its actual capacity factor from its owned renewable generation from the immediately previous calendar year. Renewable energy credits may only be used to meet a portion of portfolio requirements for the years 2011, 2016 and 2020, unless otherwise allowed by the commission. Such portfolio requirement shall provide net renewable generation capacity that shall constitute the following portion of each affected utility's peak demand:

(1) Not less than 10% of the affected utility's peak demand for calendar years 2011 through 2015, based on the average demand of the prior three years of each year's requirement;

(2) except as provided in subsection (b), not less than 15% of the affected utility's peak demand for calendar years 2016 through 2019, based on the average demand of the prior three years of each year's requirements; and

(3) except as provided in subsection (b), not less than 20% of the affected utility's peak demand for each calendar year beginning in 2020, based on the average demand of the prior three years of each year's requirement.

(b) If on January 1, 2016, construction of the facility authorized by the issuance of a permit pursuant to K.S.A. 2011 Supp. 65-3029, and amendments thereto, has not

begun, than the portfolio requirement described in subsection (a) shall be not less than 10% of the affected utility's peak demand based on the average demand of the prior three years of each year's requirement.

~~(b)~~ (c) The portfolio requirements described in subsection (a) shall apply to all power sold to Kansas retail consumers whether such power is self-generated or purchased from another source in or outside of the state. The capacity of all net metering systems interconnected with the affected utilities under the net metering and easy connection act in K.S.A. 2011 Supp. 66-1263 *et seq.*, and amendments thereto, shall count toward compliance.

(c) Each megawatt of eligible capacity in Kansas installed after January 1, 2000, shall count as 1.10 megawatts for purposes of compliance.

(d) The commission shall establish rules and regulations required in this section within 12 months of the effective date of this act.";

And by renumbering sections accordingly;

Also on page 2, in line 10, by striking "is" and inserting "and 66-1258 are";

On page 1, in the title, in line 2, after "66-1257" by inserting "and 66-1258"; in line 3, by striking "section"; and inserting "sections";

Also, on motion of Rep. O'Neal, **HB 2446** be referred to Committee on Appropriations.

Committee report to **HB 2461** be adopted; on motion of Rep. M. Holmes, be amended on page 3, in line 30, by striking "25%" and inserting "15%";

On page 7, following line 35, by inserting:

"(e) The board shall prepare and submit an alternative investment report to the joint committee on pensions, investments and benefits prior to January 1, 2016. Such report shall include a review of alternative investments of the system with an emphasis on the effects of changes in law pursuant to this act and includes specific investment cost and market value information of each individual alternative investment."; and **HB 2461** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce and Economic Development** recommends **HB 2531** be amended on page 1, in line 16, by striking "society for human resource management" and inserting "the Kansas state council of the society for human resource management (KS SHRM)";

On page 11, in line 40, after the period by inserting "No board member shall serve more than two consecutive terms."; and the bill be passed as amended.

Committee on **Energy and Utilities** recommends **HB 2455** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2455," as follows:

"Substitute for HOUSE BILL NO. 2455

By Committee on Energy and Utilities

"AN ACT concerning the motor fuel tax."; and the substitute bill be passed.

(**Sub HB 2455** was thereupon introduced and read by title.)

Committee on **Energy and Utilities** recommends **HB 2472** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Insurance** recommends **HB 2486** be passed.

Committee on **Judiciary** recommends **HB 2253** be amended on page 1, in line 8, by striking all after "legislature"; in line 9, by striking all before "shall" and inserting "that no statute, rule, regulation or other enactment of the state"; in line 10, by striking "a"; also in line 10 by striking "in the legislation" and inserting "therein"; following line 14, by inserting:

"(d) Nothing in this act shall be construed to prevent the breach of any duty imposed by law from being used as the basis for a cause of action under any theory of recovery otherwise recognized by law, including, but not limited to, theories of recovery under the law of torts or contract."; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2473** be amended on page 4, in line 37, after the the comma by inserting "and a report signed by the witness which is disclosed in lieu of the disclosure required by subsection (b)(6)."; and the bill be passed as amended.

Committee on **Redistricting** recommends **HB 2606** be passed.

Committee on **Veterans, Military and Homeland Security** recommends **HCR 5031** be adopted.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2651, AN ACT concerning alcoholic beverages; amending K.S.A. 41-306a, 41-307, 41-308, 41-701, 41-2612, 41-2614, 41-2640, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08 and K.S.A. 2011 Supp. 41-308a, 41-2601, 41-2622, 41-2629 and 79-41a03 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2652, AN ACT concerning colleges and universities, relating to tuition; amending K.S.A. 2011 Supp. 76-729 and repealing the existing section, by Committee on Veterans, Military and Homeland Security.

HB 2653, AN ACT concerning racial or other biased-based policing; amending K.S.A. 2011 Supp. 22-4606, 22-4609, 22-4610, 22-4611, 22-4611a and 22-4611b and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2654, AN ACT concerning extension districts; relating to withdrawal procedures; amending K.S.A. 2-628 and repealing the existing section, by Committee on Agriculture and Natural Resources.

HB 2655, AN ACT concerning crimes and punishments; relating to interference with judicial process; amending K.S.A. 2011 Supp. 21-5905 and repealing the existing section, by Committee on Judiciary.

HB 2656, AN ACT concerning state government; relating to the transfer of all powers, duties and functions of the adult protective services program of the department of social and rehabilitation services to the office of the attorney general of the state of Kansas, by Committee on Aging and Long-term Care.

HB 2657, AN ACT creating the joint committee on the oversight of the state fire marshal's office; amending K.S.A. 46-1001 and 46-1004 and repealing the existing sections, by Representative Otto.

HB 2658, AN ACT concerning runaways; relating to placement in a secure facility, by Committee on Children and Families.

HB 2659, AN ACT concerning public health; relating to speech-language pathologists and audiologists; amending K.S.A. 65-6501, 65-6502, 65-6503, 65-6506, 65-6507, 65-6508 and 65-6512 and K.S.A. 2011 Supp. 65-6505 and 65-6509 and repealing the existing sections, by Committee on Health and Human Services.

HB 2660, AN ACT concerning the department of health and environment; relating to the licensure of maternity centers and child care facilities; amending K.S.A. 2011 Supp. 65-503, 65-504, 65-506, 65-508, 65-516, 65-523 and 65-524 and repealing the existing sections; also repealing K.S.A. 65-502, by Committee on Health and Human Services.

HB 2661, AN ACT concerning municipalities; relating to municipally-owned or operated utilities; rates, by Committee on Energy and Utilities.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Wednesday, February 8, 2012.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

