
IN THE
United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

21-5096

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COMMONWEALTH OF VIRGINIA; STATE OF ILLINOIS; STATE OF NEVADA,
Plaintiffs-Appellants,

—v.—

DAVID FERRIERO, in his official capacity as Archivist of the United States,
Defendant-Appellee,

STATE OF ALABAMA; STATE OF LOUISIANA; STATE OF NEBRASKA;
STATE OF SOUTH DAKOTA; STATE OF TENNESSEE,
Intervenors-Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

**BRIEF FOR AMICI CURIAE MARIE ABRAMS, DOLORES
DELAHANTY, BARBARA HADLEY SMITH, DAVID KAREM, AND
VIRGINIA WOODWARD IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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CERTIFICATE AS TO PARTIES, RULINGS & RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), Amici Curiae Marie Abrams, Dolores Delahanty, Barbara Hadley Smith, David Karem, and Virginia Woodward hereby certify as follows:

(A) Parties and Amici. All parties appearing before the district court and in this Court thus far are listed in the Brief for Defendants-Appellees. Amici Curiae that submit this brief have entered appearances as Amicus Curiae after Plaintiffs-Appellants filed their initial brief.

(B) Ruling Under Review. The ruling under review is listed in the Brief for Plaintiffs-Appellants.

(C) Related Cases. The related cases are listed in the Brief for Plaintiffs-Appellants

RULE 29(d) CERTIFICATION

Pursuant to D.C. Circuit Rule 29(d), Amici Curiae Marie Abrams, Dolores Delahanty, Barbara Hadley Smith, David Karem, and Virginia Woodward certify that this separate brief was necessary because the Amici Curiae joining this brief seek only to discuss specific points on which their interest in and experience about Kentucky's experience with the Equal Rights Amendment relate. Other amici curiae would not have the same credibility or interest in making these points, and so the inclusion of these points in an omnibus brief would not work. Similarly, the Amici Curiae here know less about other legal issues in the case, and it would make little sense to address those in this brief. Amici Curiae offer expertise and background not shared with other Amici Curiae and address a different set of topics and issues.

January 10, 2022

/s/ Linda H. Martin
Linda H. Martin

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GLOSSARY

ERA Equal Rights Amendment

HJR House Joint Resolution

IDENTITY AND INTEREST OF AMICI CURIAE¹

Amici Curiae Marie Abrams, Dolores Delahanty, Barbara Hadley Smith, David Karem, and Virginia Woodward are Kentucky-based women's-rights advocates. Each was materially involved in advocating for Kentucky's ratification of the Equal Rights Amendment (ERA), opposing Kentucky's purported rescission of the ERA, or both.

Amici have a historic and strong interest in this case. They have long labored to achieve equality for women, including by advocating for the ERA to be added to the U.S. Constitution. They are profoundly interested in explaining why Intervenors are incorrect in arguing that Kentucky rescinded its ERA ratification and why, even if Intervenors were correct, they would not be entitled to summary judgment.

¹ All parties participating in this appeal have consented to the filing of this brief. No counsel for a party to this appeal authored this brief in whole or in part, and no counsel for a party or any party itself contributed money intended to fund the preparation or submission of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case comes to this Court after the District Court dismissed it, holding that Plaintiffs lacked standing and that their challenge was untimely. Amici believe that this Court should reverse the decision below for the reasons stated in Plaintiffs'. The purpose of this brief is to explain that there would be no alternative ground to affirm, if the Court decides to consider the substance of Intervenors' argument below: that Kentucky and four other States properly rescinded their ratifications of the ERA. That argument is unsupported by the Constitution and, regardless, would not support affirmance.

I.A Under Article V of the U.S. Constitution, constitutional amendments are valid “when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof.” The Supreme Court has long held that state legislatures perform a federal—and not a state-legislative—function when ratifying constitutional amendments under Article V. *See, e.g., Leser v. Garnett*, 258 U.S. 130, 137 (1922). That act of ratification is binding: once a State certifies to the federal government that its legislature has ratified an amendment—as Kentucky did with the ERA in 1972—that certification

is “conclusive,” even if state law forbade the legislature’s action. *Id.* And once three-quarters of the States have certified that they have ratified an amendment, that amendment becomes part of the U.S. Constitution.

Article V does not grant a State the separate power to rescind its ratification. The history of constitutional amendments, along with statements from the Department of Justice’s Office of Legal Counsel, the National Archivist, and U.S. Senators, all reaffirm that view. *See* Pls.’ Mem. of Law in Opp’n to Intervenor’s Mot. for Summ. J. (Opp’n) 18, 20, 22, D.D.C. ECF No. 99. Kentucky’s highest court has concurred, holding that once a State has acted on a constitutional amendment, it has “exhausted its power” under Article V. *Wise v. Chandler*, 108 S.W.2d 1024, 1028 (Ky. 1937).

Intervenor’s contrary theory of rescission flouts that settled law. Relying on a law-review article, that theory posits that ratifying federal constitutional amendments is a state-legislative act. Intervenor contends that because state legislatures are free to rescind state-legislative acts until they become final, they must also be free to rescind a ratification of an amendment until three-quarters of States have ratified it. But the law is clear that “ratification by a State of a

constitutional amendment is not an act of [state] legislation.” *Hawke v. Smith (No. 1)*, 253 U.S. 221, 229 (1920). It is instead “a *federal* function derived from the Federal Constitution.” *Leser*, 258 U.S. at 137 (emphasis added). Intervenors’ theory cannot trump binding case law.

B. Intervenors’ ahistorical and unsupported theory of Article V, even if correct, would provide no ground to affirm the judgment below. Intervenors offered no evidence to show that Kentucky, or any other State, validly rescinded ratification of the ERA according to state law. Intervenors therefore failed to meet their summary-judgment burden.

Nor could they have carried that burden as to Kentucky. Under Intervenors’ own theory, whether Kentucky validly rescinded its ratification is assessed under state law. And Kentucky did not properly rescind under Kentucky law. The 1978 resolution purporting to rescind ratification was vetoed by Lieutenant Governor Thelma Stovall, who was then authorized by Kentucky’s Constitution to exercise all the powers of Governor. The Kentucky General Assembly never overrode that veto or successfully challenged it in court. Under both Kentucky law and basic governance principles, Lieutenant Governor Stovall’s veto stripped the resolution of any legal effect.

Veto aside, the rescission was independently invalid under the Kentucky Constitution, which requires every bill to be read aloud on three separate days, in both Houses of the General Assembly. This provision prevents legislators from sneaking bills past opponents who are absent when a bill is first proposed. Legislators may not bypass this requirement by reading a bill three times and then amending it entirely. As the Kentucky Supreme Court has held, when a bill is completely amended so that it bears no resemblance to its prior form, pre-amendment readings cannot be counted toward the required total. Yet that is just what ERA opponents in the General Assembly tried to do. A pre-amendment version of the bill purporting to rescind Kentucky's ratification of the ERA was read aloud three times in both Houses of the General Assembly. But that version had nothing to do with the ERA. Rather, it concerned the effect of military service on the Kentucky Retirement System. The resulting legislation, purporting to rescind Kentucky's ERA ratification, was never read three times in its amended form. So it cannot stand under Kentucky law.

II. Intervenors' theory contravenes not only binding precedent but also the intent of Article V by making state law the factor that

determines whether a State validly exercised its federal ratification power. Under Intervenor’s view, a State’s ratification (and, by the same token, rescission) of a federal constitutional amendment would be proper only if it complied with state law. That view is contrary to longstanding precedent holding that a state legislature properly ratifies an amendment even if it contravenes state law when doing so.

If this theory were correct, opponents could hold up any federal constitutional amendment by claiming that state legislatures, in ratifying the amendment, flouted the varying and often arcane state rules governing each State’s legislative processes. And because Intervenor’s theory would let States rescind their ratifications if allowed under state law, a host of state-law challenges could ensue every time a State changed course. As Kentucky’s experience illustrates, these challenges could come from all angles—constitutional, legislative, rules-based, and beyond.

The Framers did not intend for Article V to work this way. While Article V “guards” against “extreme facility” of amendment, it was also meant to prevent “extreme difficulty” of amendment. The Federalist No. 43 (James Madison). And treating state ratification decisions as

ordinary legislative acts would make it extremely difficult to amend the Constitution: opponents to any amendment could pick state-law-grounded fights over whether each State properly ratified. This is not the process the Framers envisioned. Nor does it comport with case law interpreting the exercise of Article V power.

This Court should recognize as much and, if it reverses the District Court's decision, should decline to otherwise affirm on the basis of Intervenor's flawed theory.

ARGUMENT

Plaintiffs appeal the dismissal of their case by the District Court, which held that they did not have standing to issue their challenge and did not timely file. Amici believe that this Court should reverse that dismissal for the reasons set out in Plaintiffs' appeal brief and remand to the District Court for further consideration of the merits consistent with the reversal. Of course, this Court may, after rejecting the reasoning of the District Court, still affirm "on any ground properly raised" below, *Jones v. Bernanke*, 557 F.3d 670, 674 (D.C. Cir. 2009) (quotation marks omitted). The Court could therefore choose to consider the substance of Intervenor's argument below: that five States including

Kentucky rescinded their ratifications of the ERA, and accordingly the Amendment has not amassed the state support required.

If this Court pursues that alternative path, however, Intervenors' argument would provide no ground to affirm. Their theory not only lacks any basis in Article V of the Constitution, but also would—as Amici's own experience with Kentucky's efforts to rescind its ratification of the ERA show—generate factual disputes fatal to Intervenors' motion for summary judgment. Amici thus respectfully urge this Court to reverse the District Court's decision without affirming on an alternative ground by endorsing Intervenors' flawed theory of rescission, and to remand for further proceedings on the merits.

I. Intervenors are not entitled to summary judgment on their rescission theory.

A. Intervenors' theory of rescission is contrary to settled and binding federal law.

As Plaintiffs correctly argued below, a State cannot rescind its ratification of a federal constitutional amendment. The text, history, and purpose of Article V of the U.S. Constitution all support that conclusion. Opp'n 18–24. Article V itself nowhere mentions rescission. Instead, it says that an amendment becomes part of the Constitution

“when” three-quarters of the state legislatures or ratifying conventions have “ratified” it. And, as Plaintiffs explained below, a variety of legislative and executive actors, in addition to Kentucky’s highest court, have interpreted this language to preclude a state legislature from rescinding its vote on a constitutional amendment. The federal government instead accepts whatever certification a State transmits to it and will add an amendment to the U.S. Constitution once three-quarters of state legislatures (or conventions, as the case may be) have ratified it.

Intervenors’ contrary theory of Article V emerges mainly from a flawed, decades-old article by a law professor. The theory posits that States may rescind their ratifications of federal constitutional amendments until three-fourths of all States ratify that amendment. See Intervenors’ Mot. for Summ. J. & Supporting Mem. of Points & Authorities 24 (quoting Michael Stokes Paulsen, *A General Theory of Article V: The Constitutional Lessons of the Twenty-Seventh Amendment*, 103 Yale L.J. 677, 725 (1993)), D.D.C. ECF No. 74. Under Intervenors’ theory, state legislatures’ ratification decisions are subject to this “general rule” governing legislative bodies, because state

legislatures perform an ordinary state-legislative function when ratifying. *Id.* (quoting Paulsen, *supra*, at 725).

But the Supreme Court has held the opposite. In discussing the proper understanding of Article V, the Court has ruled that “ratification by a State of a constitutional amendment is not an act of legislation within the proper sense of the word.” *Hawke v. Smith (No. 1)*, 253 U.S. 221, 229 (1920). It is instead “a federal function derived from the Federal Constitution.” *Leser v. Garnett*, 258 U.S. 130, 137 (1922) (citing *Hawke*). In “assent[ing]” to Article V, the States agreed that “[t]he choice of means of ratification” would be “withheld from conflicting action in the several states,” thereby relinquishing their state-legislative power over ratification. *Hawke*, 253 U.S. at 230; *see Printz v. United States*, 521 U.S. 898, 918–19 (1997) (explaining that “the States surrendered many of their powers to the new Federal Government” when ratifying the U.S. Constitution). States thus do not engage in “concurrent legislation” when they ratify amendments. *See Hawke*, 253 U.S. at 229.

For that reason, the Supreme Court has held that a State legislature can validly ratify an amendment even if it violates state law

in doing so. In *Hawke*, the Court confronted a challenge that the Eighteenth Amendment was invalid because Ohio had not properly ratified it. Although Ohio's state legislature voted to ratify the amendment, challengers argued that approval solely by the legislature violated a provision of the Ohio Constitution granting Ohioans "the power of referendum on the action of the [legislature] in ratifying any proposed amendment to the constitution of the United States." *Id.* at 225 (quotation marks omitted). The Supreme Court rejected the challenge. In its view, the referendum provision of the Ohio Constitution could not constrain the state legislature in ratifying the Eighteenth Amendment. Because "the power to ratify a proposed amendment to the Federal Constitution has its source in the Federal Constitution," the Court ruled, state legislatures are not constrained by state law limiting their legislative powers. *Id.* at 230.

The Supreme Court reemphasized this point in *Leser*. There, the Court held that the Nineteenth Amendment was validly ratified even if, under the "constitutions of several of the" ratifying States, the state legislatures "were without power to ratify." 258 U.S. at 136–37. The federal power that state legislatures exercise when ratifying, the Court

stressed, “transcends any limitations sought to be imposed by the people of a State.” *Id.* at 137.²

Intervenors offered no answer to these cases in either their summary-judgment brief or their reply, because they have none. Nor does Paulsen himself. Although legal commentators certainly have a role to play in suggesting areas where the law can change, their positions do not override settled law. Besides, Paulsen never grapples with the holdings of *Leser* or *Hawke*. Instead, he waves them away as wrongly decided merely because they contradict his own theory, *see* Paulsen, *supra*, at 731, a position that flies in face of history, precedent, constitutional norms, and our system of government. While Paulsen

² *Hawke* and *Leser* are not the only Supreme Court cases that Paulsen’s theory admittedly cannot accommodate. Paulsen argues that *Hollingsworth v. Virginia*, 3 U.S. (3 Dall.) 378 (1798), which holds that Congress need not present proposed amendments to the President for approval, is wrong. Under Paulsen’s view of Article V, “[t]he better approach . . . would be that such congressional proposals be presented to the President.” Paulsen, *supra*, at 731. The concurrent-legislation model is thus “in tension” with *Hollingsworth* and the centuries of practice that followed. *Id.* at 730. But “[t]hat history matters.” *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2567 (2019). Paulsen’s efforts to brush aside “the early understanding and long practice under” Article V highlights the error in his approach. *Id.*

may choose to disregard Supreme Court precedent, courts may not. *See, e.g., Sierra Club v. Jackson*, 648 F.3d 848, 854 (D.C. Cir. 2011).

B. Even under Intervenors’ mistaken view of rescission, they would not be entitled to summary judgment.

1. Under Intervenors’ view, rescission would be subject to state-law constraints on legislation.

Unable to draw on the text, history, or purpose of Article V—as Plaintiffs do—Intervenors fall back to Paulsen’s article to defend the States’ “implicit” power to rescind prior ratifications. According to the article and contrary to Supreme Court precedent, Intervenors wrongly assert that that power is legislative in nature.

The article contends that Article V envisions “concurrent legislation” by the federal government and the States. Paulsen, *supra*, at 722. In other words, “Article V’s amendment process . . . involv[es] the combined, but separate, *legislative enactments* of specified supermajorities of Congress, and of state legislatures, resulting in their *concurrent approval* of an identical proposal.” *Id.* Thus, the argument goes, “the actions taken by . . . state legislatures in voting for any particular amendment language must be understood as ordinary legislative enactments of those bodies . . . , made *in accordance with each body’s usual processes and subject to the usual understanding of*

how legislation is made.” *Id.* (emphasis added). And because state legislatures can withdraw their votes for legislation until that legislation becomes final, Intervenors and Paulsen contend that a State can rescind its ratification at any point before a constitutional amendment becomes final—that is, (in their view) until three-quarters of States, not including any rescinding States, ratify it. As explained above, this theory of Article V clashes with the Supreme Court’s directly contrary holdings in *Hawke* and *Leser*, which make plain that a State undertakes a final act when it certifies its ratification and that, by extension, a constitutional amendment becomes final once three-quarters of States have certified.

Yet even if Paulsen’s theory were right, it would not entitle Intervenors to summary judgment. Instead, it would impose additional state-law hurdles that Intervenors failed to clear. That is because, under the concurrent-legislation theory that Intervenors espouse, state law may constrain the ratification and rescission process. According to Paulsen, “a state should be free to determine, as a matter of its own law, the procedures governing its own legislative processes . . . , and this freedom should extend to ratification issues.” *Id.* at 731. So, for

example, the ratification process may be subject to a state “rule that the lieutenant governor breaks tie votes in the upper house” or “requirements that all or some legislative enactments not take effect unless approved by the governor, by a popular referendum, or by supermajorities of its legislative chambers.” *Id.*

Although Paulsen claims that “the state’s transmission of its ratification should be one that federal authorities may take at face value,” *id.* at 732, that statement does not square with his (and Intervenors’) concurrent-legislation theory. It makes sense only if state legislatures are performing a federal, rather than legislative, function. Indeed, this “face value” statement relies on *Leser*, which held it immaterial that two ratifying States “adopted [ratifying resolutions] in violation of the[ir] rules of legislative procedure.” 258 U.S. at 137. Because the state legislatures “had power to adopt resolutions of ratification”—a power Article V grants—their “official notice” to the U.S. Secretary of State that they had done so is “conclusive upon him” and “upon the courts.” *Id.* Even though that power is at least in some cases manifested through state-legislative procedures, it is

fundamentally a *federal* power—as *Leser* and *Hawke* make clear.³ *See supra* pp. 10–12. And it is a power that extends only to ratification, which is the sole action Article V mentions. But if state legislatures are instead exercising *state*-legislative power subject to state-law legislative constraints—as Paulsen contends, *see Paulsen, supra*, at 731—then the federal government would need to examine state law.

In short, Intervenors’ theory demands that the Court examine the law of the five purportedly rescinding States to determine whether each State’s rescission was valid. To prevail on their rescission theory, then, Intervenors must to make that state-law showing for each State. As discussed below, they have not made such a showing.

2. *Intervenors come nowhere close to showing that the purported ERA rescissions were valid under state law.*

Because Intervenors sought summary judgment, they had the burden to show that the ERA has not been ratified by the requisite thirty-eight States. They did not do so. Instead, they relied on the fact

³ Kentucky certified its own ratification to the federal government on June 27, 1972. *See Equal Rights Amendment—Proposed March 22, 1972: List of State Ratification Actions*, Nat’l Archives (Mar. 24, 2020), <http://tiny.cc/m9sosz>.

that the purportedly rescinding States have informed the U.S. Secretary of State that they rescinded their ratifications. But Intervenor, in seeking summary judgment, never even tried to grapple with the state-law analysis that their own concurrent-legislation theory would require. Doing so would have been a daunting task. Intervenor would have needed to show that each rescinding State's constitution, legislation, regulations, and other rules allowed the State to rescind, and that rescission occurred in accordance with those strictures.

Kentucky's experience vividly illustrates the magnitude of this analysis, and of Intervenor's inability to develop and articulate it—as required to prevail on summary judgment. Although Intervenor relied solely on a purported notification by Kentucky's Secretary of State that rescission occurred, that purported rescission was invalid under Kentucky law. For starters, the Lieutenant Governor, who was acting as Governor when the resolution purporting to rescind ratification was presented for approval, vetoed the resolution. The Kentucky General Assembly never overrode that veto. And while that should be the end of the analysis, state constitutional defects independently doom Kentucky's effort to rescind its ERA ratification. That is because the

resolution rescinding the veto was not read three times on three separate days, as required by § 46 of the Kentucky Constitution. As the Kentucky Supreme Court has held, such a failure to satisfy § 46 renders the resulting resolution void.

The Kentucky rescission was successfully vetoed. Kentucky ratified the ERA in 1972 by joint resolution. *See* Acts of the Gen. Assembly of the Commonwealth of Ky. 104, 104 (1972) (ADD3);⁴ 2 J. of the Senate of the Gen. Assembly of the Commonwealth of Ky. 1377 (1978) (Senate Journal) (ADD42). That resolution became official when Kentucky's Governor declined to return the resolution to the General Assembly. *See* Ky. Const. § 88 (bill becomes law if Governor declines to return it to General Assembly within ten days).

Although Kentucky's legislature, the General Assembly, tried in 1974 and 1976 to rescind ratification, those efforts failed. *See* Nancy E. Baker, *Integrating Women into Modern Kentucky History: The Equal Rights Amendment Debate (1972–1978) as a Case Study*, 113 Reg. Ky. Hist. Soc'y 477, 485 (2015).

⁴ Citations to "ADD" refer to the addendum to this brief, which contains sources that are not easily accessible.

Rescission gained steam again in 1978. One prominent ERA opponent, who headed Kentucky's STOP ERA organization, claimed without any rational basis that "the ERA would promote lesbianism and immorality," remarking that the "only . . . group that the ERA would do any good for" was homosexuals." *Id.* at 495–96 (quotation marks omitted). Other ERA opponents likewise falsely claimed that the amendment would help "legaliz[e] abortion." *Id.* at 497 (quotation marks omitted). By some accounts, the Kentucky General Assembly took heed of the "countless numbers of Christian women" who wanted to see the State's ratification repealed. *Id.* at 501 (quotation marks omitted).

Whatever the reason, the Kentucky General Assembly purported to rescind its ratification in 1978 through a series of complex procedural moves. The Kentucky Senate had failed "[f]or weeks . . . to force a rescission bill out of committee to the floor for a vote." *Id.* at 497. It ultimately resorted to last-minute procedural jockeying to bring the issue to a head. Senator Richard Weisenberger, an ERA opponent, *id.* at 496, proposed a floor amendment to House Joint Resolution (HJR) 20, a bill then pending before the Senate. *See* 2 Senate Journal 1377–78

(ADD42–43). Before the amendment, HJR 20 “direct[ed] a study of the cost of military service credit for members of the Kentucky Retirement System.” *Id.* at 1875 (ADD46). Senator Weisenberger’s amendment added to HJR 20 a provision purporting to “repeal[]” Kentucky’s “ratification of the [ERA].” *Id.* at 1378–79 (ADD43–44). And because the Kentucky Constitution forbids the General Assembly to “enact[]” any law “relat[ing] to more than one subject,” Ky. Const. § 51, the amendment to HJR 20 also gutted any reference to the bill’s prior subject (military service credit) and changed the title of the bill to refer only to the ERA, *see* 2 Senate Journal 1379–80 (ADD44–45).

HJR 20 was then sent to the Kentucky House of Representatives. After reading the new bill aloud a single time, the House ultimately passed HJR 20 as amended. *See* 2 J. of the House of Representatives of the Gen. Assembly of the Commonwealth of Ky. 2348, 2352 (1978) (House Journal) (ADD23, ADD27).

Once it had passed both houses, amended HJR 20 was sent to Kentucky Governor Julian Carroll for signature. Governor Carroll, however, was out of the State on vacation. *ERA Supporter Vetoes Resolution*, Tuscaloosa News at 3 (Mar. 21, 1978), <http://tiny.cc/lf2psz>.

Under the Kentucky Constitution in force at that time, Governor Carroll's absence meant that the Lieutenant Governor, Thelma Stovall, was vested with "all the power and authority appertaining to the office of Governor." Ky. Const. of 1891, § 84;⁵ Ky. Legis. Rsch. Comm'n, *Citizens' Guide to the Kentucky Constitution* 42 (2013), <http://tiny.cc/nasosz>; see, e.g., *Royster v. Brock*, 79 S.W.2d 707, 708 (Ky. 1935). That power included the power to veto legislation. See Ky. Const. §§ 88–89.

Exercising that constitutionally bestowed veto power, Lieutenant Governor Stovall vetoed HJR 20, citing substantive and procedural concerns. See 2 House Journal 2508–09 (ADD31–32); see also Letter from the Office of the Kentucky Attorney General to David Karem (Mar. 29, 1978) (ADD54–55) (opining that Lieutenant Governor Stovall's "veto of HJR 20 is valid"). On the substance of the bill, Lieutenant Governor Stovall's veto message stated that HJR 20 was "not in the best interests of the people of the Commonwealth of Kentucky." 2 House Journal 2508 (ADD31). On the procedure, she declared that the General Assembly "was powerless to rescind the action previously it had taken on the

⁵ In 1992, Kentucky's Constitution, including § 84, was amended, reducing the role and powers of the Lieutenant Governor.

identical subject matter” (ADD32)—an apparent reference to the Kentucky Court of Appeals’ *Wise* decision, holding that a State can act only once on a constitutional amendment, 108 S.W.2d at 1033; *see supra* p. 3—and that “[t]he manner in which HJR 20 obtained concurrence by both Houses of the General Assembly w[as] illegal.” 2 House Journal 2509 (ADD32).

Lieutenant Governor Stovall expounded on these statements in an address to the Kentucky Senate. She lauded the ERA on its merits and stated that “no person who claims to be fair and compassionate could find any fault or vice in [it]” and that “[t]hose who do—necessarily—condone inequality on account of sex.” 2 Senate Journal 1875 (ADD45). And she noted that HJR 20 was “of dubious legality” at any rate, since it violated the Kentucky Senate Rule’s prohibition on “piggybacking”: amending a bill during the final ten days of a legislative session by swapping in the text of a different bill. *Id.* Indeed, Kentucky Senate Rule 50 (ADD53) barred such piggybacking. Lieutenant Governor Stovall, who also served as the Kentucky Senate’s “presiding officer,” warned that the “parliamentary maneuvers” reflected in the Senate’s piggybacking undermined “the orderly procedures” that Stovall had

“undertaken to” observe. *Id.*; see also Baker, *supra*, at 499 (quoting Governor Carroll as stating, in 1978, that piggybacking “could destroy the legislative process”).

Once vetoed, HJR 20 could become operative only if a majority of each House of the General Assembly voted to override it. See Ky. Const. §§ 88–89; *Lewis v. Cozine*, 29 S.W.2d 34 (Ky. 1930); see also *Legis. Rsch. Comm’n ex rel. Prather v. Brown*, 664 S.W.2d 907, 913 (Ky. 1984) (holding that the General Assembly possesses only those powers that the Kentucky Constitution expressly grants it). Neither did so. See *ERA Supporter Vetoes Resolution*, *supra*. And although members of the General Assembly claimed that they planned to fight the veto in court, they never did. See Bill Straub, *Good Ideas Come and Go—but Not for the Equal Rights Amendment*, N. Ky. Trib. (Mar. 12, 2020), <http://tiny.cc/d2nosz>. As a result, HJR 20 remains inoperative under Kentucky law, and Kentucky’s ratification of the ERA stands.

Kentucky’s purported rescission of the ERA violated the Kentucky Constitution. Even if HJR 20 had not been vetoed, it would be invalid for a separate reason: its enactment failed to satisfy § 46 of the Kentucky Constitution. Section 46—which has been in force without

amendment since 1891—requires that “[e]very bill shall be read at length on three different days in each House, but the second and third readings may be dispensed with by a majority of all the members elected to the House in which the bill is pending.” Compliance with § 46 is mandatory. Laws that are not read aloud three times—and are not subject to a vote to dispense with these readings—are void. *Bevin v. Commonwealth ex rel. Beshear*, 563 S.W.3d 74, 93–94 (Ky. 2018).

This three-readings requirement is a key feature of Kentucky’s legislative process. As its framers explained, the requirement prevents legislators from “push[ing] through” “very important measures, affecting the interest of the whole people, . . . without referring them to any Committee, frequently at the end of a session.” 3 *Official Report of the Proceedings and Debates in the Convention Assembled at Frankfort to Adopt, Amend or Change the Constitution of the State of Kentucky* 3858 (1890) (ADD57). Section 46 thus “correct[ed] that evil” by requiring that each bill be read three times on three different days, increasing the chances that each member of the General Assembly will be present for at least one reading. *Id.* In other words, the three-readings requirement seeks “to ensure that every legislator has a fair

opportunity to fully consider a bill before it is called for a vote.” *Bevin*, 563 S.W.3d at 92.

Given that purpose, the Kentucky Supreme Court has held that § 46’s three-readings requirement begins anew when the General Assembly amends a bill such that the amended version “bear[s] no relationship” to the original bill. *Id.* at 91. That is especially true when the General Assembly accomplishes the second and third reading by resorting to “the common legislative practice of reading only the title of the bill and [printing or] electronically publishing simultaneously the full text of the bill to the electronic legislative journal available on every legislator’s desk.” *Id.* at 90. In such circumstances, the reading of the title of the old bill does not “trigger[]” any “recognition of the bill’s contents,” for the new bill is not “consistent with the theme reflected in the title of the [original] bill.” *Id.* at 91. So when “the subject or proposition of the bill is . . . wholly changed” by amendment, the General Assembly must “read the amended bill three times, and on different days.” *Hoover v. Bd. of Cty. Comm’rs*, 482 N.E.2d 575, 579 (Ohio 1985) (quotation marks omitted), *quoted with approval in Bevin*, 563 S.W.3d at 91–92. That way, “every legislator” will have “a fair

opportunity to fully consider” the amended bill—which is, in effect, an altogether new piece of legislation. *Bevin*, 563 S.W.3d at 93.

Under that rubric, the bill purporting to rescind Kentucky’s ERA ratification was unconstitutional. The Kentucky Senate passed that measure by deleting all of the prior content of the pending bill HJR 20, inserting instead language purporting to rescind the ERA, and changing the bill’s title. *See supra* pp. 19–23. After that amendment, neither the substance nor the title of HJR 20 made any mention of the bill’s original purpose—studying the effect of military service credit on the Kentucky Retirement System. *See supra* p. 20. Yet the version of HJR 20 that was read three times in each House—once by its full text and twice by title only—was the pre-amendment version, concerning military service credit:

HJR 20 Readings in Kentucky House				HJR 20 Readings in Kentucky Senate			
Date	Reading No.	Full Text or Title?	Subject of Bill	Date	Reading No.	Full Text or Title?	Subject of Bill
Feb. 9, 1978	1 ⁶	Full text	Military Service Credit	Mar. 3, 1978	1 ¹⁰	Full text	Military Service Credit
Feb. 10, 1978	2 ⁷	Title only	Military Service Credit	Mar. 6, 1978	2 ¹¹	Title only	Military Service Credit
Feb. 17, 1978	3 ⁸	Title only	Military Service Credit	Mar. 13, 1978	3 ¹²	Title only	Military Service Credit
Mar. 16, 1978	4 ⁹	Full text	Purported ERA Rescission	Mar. 13, 1978	4 ¹³	Full text	Purported ERA Rescission

⁶ See 1 House Journal 504–05 (ADD9–10) (reading the title of HJR 20 as “A Joint Resolution directing a study of the demand for and prospective costs of military service credit for members of Kentucky Retirement Systems and carrying an appropriation therefor” and its text, which related to the same).

⁷ *Id.* at 538 (ADD11).

⁸ *Id.* at 713 (ADD13).

⁹ 2 *id.* at 2348–50 (ADD23–25).

¹⁰ 1 Senate Journal 980–81 (ADD38–39).

¹¹ *Id.* at 1012 (ADD40).

¹² 2 *id.* at 1377 (ADD42).

¹³ *Id.* at 1378–80 (ADD43–45).

So although a bill designated “HJR 20” was read four times in each House, a bill about rescinding the ERA was read just once in each House. *See* 2 Senate Journal 1380; 2 House Journal 2348 (ADD23). Nor did a majority of either House vote to dispense with the second and third readings of the new bill. *See* 2 Senate Journal 1377–80 (ADD42–45); 2 House Journal 2129, 2205, 2207, 2210, 2340–41, 2347–52, 2390 (ADD16–27, ADD29).

This process mirrors that in *Bevin*, and—as in *Bevin*—invalidation of the amended bill follows. Here, as there, the Senate’s “complete elimination of all the words of the prior readings and their total replacement with words bearing no relationship to the title of the bill” that was previously read means that those prior readings do not count toward § 46’s three-readings requirement. 563 S.W.3d at 91. Each House thus had to read HJR 20, as amended, three times on three separate days after its amendment on March 13, 1978. They did not do so. The General Assembly accordingly failed to discharge its § 46 obligation to read the “wholly changed” bill three times. *Bevin*, 563 S.W.3d at 92 (quoting *Hoover*, 482 N.E.2d at 579). As a result, HJR 20 is void.

* * * *

Kentucky is but one of the five States to purportedly rescind their ERA ratifications. Intervenors claimed that four other States—Idaho, Nebraska, South Dakota, and Tennessee—did so too. To prevail on their rescission argument, then, Intervenors needed to show, as a matter of law, that at least one of those States’ purported rescissions was valid. That would have been no easy task. *See* Opp’n 24–27. Because Intervenors did not even attempt it, this Court, if it reaches the merits of Intervenors’ motion, should deny them summary judgment even if it accepts their flawed rescission theory.

II. Kentucky’s purported rescission highlights that the Framers did not intend for the ratification process to resemble the ordinary legislative process.

As the Kentucky example illustrates, assessing whether each State’s ratification (and any attempts to rescind ratification) comply with state law introduces complications into the ratification process. The concurrent-legislation theory that Intervenors advance would allow the amendment process—“a federal function derived from the Federal Constitution,” *Leser*, 258 U.S. at 137—to vary over time depending on the whims of various state constituencies. It would represent a stark

departure from the current framework, in which the federal government *accepts as final* a State's certification that it has ratified the Constitution, *see id.*, in favor of one in which each of a State's ratification actions could be grounds for a state-law challenge—or several. It is precisely to avoid the confusion attending Intervenors' proposed framework that binding law calls for deference to a State's certification and that Article V power is narrowly drawn and limited to ratification—a one-time exercise of federal power, rather than an ongoing cycle of ratifying and rescinding.

That is not what the Framers intended. Article V of the U.S. Constitution represents a compromise that “guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered flaws.” The Federalist No. 43 (James Madison). Yet letting the States change their ratification vote as many times as they want before an amendment becomes final—that is, as soon as three-fourths of the States ratify—would make amending the Constitution extremely difficult.

That is especially so when each change could be fertile grounds for a challenge that the decision did not comply with state law. That door has long been closed. *See Hawke*, 253 U.S. at 229. Accepting Intervenors' theory of rescission would reopen the door, allowing state-law challenges for every future ratification action that any State takes, as Kentucky's experience shows. The result would be a rash of litigation. Some challenges might center on whether the legislation containing the ratification was vetoed. If so, the focus would shift to whether the veto was valid under state law. Courts would also need to examine the legislative record to ascertain whether the state legislature overrode the veto and, if so, whether that override complied with the State's constitution.

And a veto is hardly the sole state-law constraint. As Kentucky's experience again shows, even if legislative acts are not vetoed, they may still be invalid in other ways. For Kentucky, that means examining whether the Kentucky legislative measure that contained the purported ERA rescission was read three times. Even if it was, courts would need to consider whether the measure was the subject of an amendment that altogether altered the substance of the bill, such that the amended

legislation would also need to be read three times. This is far from a Kentucky-specific issue. Several other States have rules mirroring § 46 of the Kentucky Constitution, under which Kentucky's purported rescission is invalid. *See, e.g., Hoover*, 482 N.E.2d at 579; *Magee v. Boyd*, 175 So. 3d 79, 114 (Ala. 2015); *Van Brunt v. State*, 653 P.2d 343, 345 (Alaska Ct. App. 1982); *State ex rel. Martin v. Ryan*, 139 N.W. 235, 238 (Neb. 1912). Intervenors' concurrent-legislation theory would require ensuring that each purported ratification action complies with those provisions—and any other provisions limiting the legislative process.

Even beyond Lieutenant Governor Stovall's veto and the invalidity of Kentucky's purported rescission under the State Constitution, the Kentucky example highlights the other sources of state law that might come into play under Intervenors' worldview. As Lieutenant Governor Stovall observed, the amendment to HJR 20 likely violated the Kentucky Senate Rules, which forbade “any amendment to a bill originating in the House of Representatives . . . during [the] final ten . . . legislative days which proposes to insert therein the text of any other bill.” Ky. Senate R. 50 (1978) (ADD53); *see* 2 Senate Journal 1875 (ADD46). Although the Kentucky Constitution makes “[t]he General

Assembly itself” the “final arbiter of its own rules,” *Bevin*, 563 S.W.3d at 79 n.3 (citing Ky. Const. § 39), that is not necessarily so in each State, see *Malone v. Meekins*, 650 P.2d 351, 359 (Alaska 1982) (allowing judiciary, “in extraordinary circumstances,” to consider whether “legislature follow[ed] its own rules”); *Bd. of Educ. of City Sch. Dist. of City of N.Y. v. City of New York*, 41 N.Y.2d 535, 538 (1977) (similar). The concurrent-legislation model, which incorporates States’ “procedures governing [their] own legislative processes,” Paulsen, *supra*, at 731, would thus likely spawn litigation over States’ legislative rules and who can enforce those rules.

That is not what Article V envisions. In ratifying or rejecting proposed amendments to the U.S. Constitution, States draw on “power” that “has its source in the Federal Constitution.” *Hawke*, 253 U.S. at 229–30; see *supra* pp. 10–12. They do not “legislat[e].” *Hawke*, 253 U.S. at 229. Treating the ratification process as a traditional legislative process would undermine that holding and subject States’ ratification decisions to state-law scrutiny that the Framers never intended. And that scrutiny could extend for decades. As the ERA’s own ratification spotlights, the ratification process could last half a century. All the

while, States could reverse course time and again, with each decision susceptible to state-law challenges that the Supreme Court long ago foreclosed. Nowhere does Article V endorse such “constitutional chaos.” Opp’n 22. Neither should this Court.

CONCLUSION

The Court should reverse the District Court’s grant of Intervenors’ motion for summary judgment on the basis of standing and timeliness, should not otherwise affirm summary judgment to Intervenors on the merits, and should remand to the District Court for further proceedings.

January 10, 2022

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Rule 32(a)(7)(B) of Appellate Procedure because it contains 6,196 words.

2. This brief complies with the typeface requirements of Rule 32(a)(5) of Appellate Procedure and the type style requirements of Rule 32(a)(6) of Appellate Procedure because the brief has been prepared in a proportionally spaced typeface using Microsoft Word Office 365 in Century Schoolbook 14-point font.

Respectfully submitted,

/s/ Linda H. Martin

Linda H. Martin

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2021, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

Respectfully submitted,

/s/ Linda H. Martin

Linda H. Martin

Addendum

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ex. sess.



KENTUCKY ACTS
FIRST
EXTRA SESSION
1972

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Acts of the General Assembly of the Commonwealth of Kentucky



Passed at the Extraordinary Session of the General Assembly, which was begun in the city of Frankfort, Kentucky, on Thursday, June the eighth, 1972, and ended Thursday, June the fifteenth, 1972.

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CHAPTER 8
(H. R. 2)

A JOINT RESOLUTION ratifying a proposed amendment to the Constitution of the United States.

WHEREAS, House Joint Resolution 208 of the Ninety-Second Congress (Second Session) proposes an amendment to the Constitution of the United States; and

WHEREAS, the amendment so proposed shall be valid to all intent and purposes as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress; and

WHEREAS, the purpose of the proposed amendment is in keeping with the desires of the people of this Commonwealth to insure that equality of rights under law shall not be denied or abridged by the United States or any State on account of sex;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The amendment to the Constitution of the United States proposed by House Joint Resolution 208 of the Ninety-Second Congress (Second Session), proposing an amendment to the Constitution of the United States relative to equal rights for men and women and reading as follows, hereby is ratified:

Article

Section 1. Equality of rights under law shall not be denied or abridged by the United States or any State on account of sex.

Section 2. The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

Section 3. This Amendment shall take effect two years after the date of ratification.

Section 2. The Governor of the Commonwealth shall cause certified copies of this resolution to be sent to the Administrator of General Services of the United States, to the Secretary of State of the United States, to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States. The Secretary of State of this Commonwealth shall cause certified copies of the resolution to be sent to the Governor of each of the United States.

1 J. of the House of Representatives of the Gen. Assembly of the Commonwealth of Ky. (1978) (excerpt) (ADD4-14)

JOURNAL
of the
HOUSE OF
REPRESENTATIVES
of the
GENERAL ASSEMBLY
of the
COMMONWEALTH OF KENTUCKY

Regular Session of 1978

Volume I

**Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1978, and
in the One Hundred and Eighty-sixth
Year of the Commonwealth**

**Begun on the Third Day of January, 1978, and Adjourned
Sine Die on the Eighteenth Day of March, 1978**

Paid from State Funds

ADD4

TUESDAY, JANUARY 17, 1978

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TUESDAY, JANUARY 17, 1978

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Bennett, Benson, Beshear, Blythe, Burch, Clapp, Clarke, Crupper, DeMarcus, Gray, Guenther, Head, Hines, Johnson, Kidd, Kleier, Maynard, McNutt, Pearman, Sale, Siemens, Stewart, Trevey, and Williams.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 13, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 221, by Representatives White and Bruce: AN ACT relating to state police officers.

HB 222, by Representative White: AN ACT relating to elections.

HB 223, by Representatives Romines, DeMarcus, Benson, Kleier, Little, Priddy, Siemens, Yates, McKinney, Riner, Holloway, and O'Brien: AN ACT making an appropriation for the interstate transfer of inmates.

HB 224, by Representative Dawahare: AN ACT relating to the coal producing county development fund.

HB 225, by Representative Burnette: AN ACT relating to sales and use taxes.

HB 226, by Representative DeFalaise: AN ACT relating to defense of state employes.

HB 227, by Representative Deskins: AN ACT relating to disasters and emergencies.

HB 228, by Representative Little: AN ACT relating to the education of handicapped children.

HJR 16, by Representatives Brown, Worthington, May, Cyrus, Arnold, Holbrook, Plummer and Carpenter: A JOINT RESOLUTION directing the Council on Higher Education to develop a proposal to equalize retirement contributions and benefits.

HCR 17, by Representative Weinberg: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study methods of providing in-service training programs for Kentucky local government officials.

HR 18, by Representatives Wells, Kenton, Donnermeyer, Brinkley, and Boatwright: A RESOLUTION in honor and memory of Hubert H. Humphrey.

HR 19, by Representative Wells: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HJR 20, by Representative Hancock: A JOINT RESOLUTION directing a study of the demand for and prospective costs of military service credit for members of Kentucky Retirement Systems and carrying an appropriation therefor.

WEDNESDAY, JANUARY 18, 1978

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Beshear, Blythe, Burch, Clapp, Crupper, DeMarcus, Gray, Hines, Kidd, Kleier, Maynard, McNutt, Pearman, Sale, Siemens, Stewart, Tobin and Trevey.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 17, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 233, by Representative B. Richardson: AN ACT relating to public assistance.

HB 234, by Representative B. Richardson: AN ACT relating to fines.

HB 235, by Representatives Fitzgerald and Mann: AN ACT relating to work on Sunday.

HB 236, by Representatives LeMaster and Johnson: AN ACT relating to divorce.

HB 237, by Representatives Arnold, Worthington, and Jones: AN ACT relating to the merger of the positions of fire chief and police chief in cities of the fourth, fifth or sixth class.

HB 238, by Representatives Arnold, Worthington, and Jones: AN ACT relating to the merger of police and fire departments in cities of the fourth, fifth and sixth classes.

HB 239, by Representative Arnold: AN ACT relating to the relocation of graves.

HB 240, by Representative Little: AN ACT relating to oil and gas.

HB 241, by Representatives Bruce and Morris: AN ACT relating to revenue and taxation.

HR 21, by Representatives Burnette and Boatwright: A RESOLUTION supporting the "American Farm Movement."

HR 22, by Representative Burnette: A RESOLUTION to adjourn the House of Representatives in honor and memory of Vyron Mitchell.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 223, HB 224, HB 225, HB 229.**

Education: **HB 228, HB 231, HR 16, SB 23, SB 24, SB 27, SB 29.**

Elections and Constitutional Amendments: **HB 222.**

Public Utilities and Transportation: **HB 232.**

State Government: **HB 221, HB 226, HB 227, HB 230, HR 17, HR 20.**

TUESDAY, JANUARY 24, 1978

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HB 276, by Representatives Bennett, Van Horn, and Lindsay: AN ACT relating to unfair practices in franchising, leasing and business agreements.

HB 277, by Representatives Bennett and Van Horn: AN ACT relating to sales tax exemptions for handicapped devices.

HB 278, by Representative Bennett: AN ACT relating to arbitration.

HR 27, by Representative B. Richardson: A RESOLUTION amending the Rules of the House of Representatives.

HR 28, by Representative B. Richardson: A RESOLUTION amending Rule 39 of the Rules of the House of Representatives.

HCR 29, by Representatives Jones, Morris, Adams and Richards: A CONCURRENT RESOLUTION directing a study of alternative on-site sewage disposal systems as they apply in rural Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 245, HB 249.**

Appropriations and Revenue: **HB 248, HB 253.**

Business Organizations and Professions: **HB 250.**

Counties and Special Districts: **HB 247.**

Education: **HJR 24.**

Elections and Constitutional Amendments: **HB 252.**

Health and Welfare: **HB 246.**

Highways and Traffic Safety: **HB 255.**

Judiciary-Statutes: **HB 251, HB 256.**

Public Utilities and Transportation: **HB 244, HB 254.**

State Government: **HCR 26.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 241.**

State Government: **HCR 26, HJR 20, HB 200, HB 190.**

Banking and Insurance: **HB 172, HB 208, SB 67.**

Elections and Constitutional Amendments: **HB 137, HCR 7.**

Counties and Special Districts: **HB 33, HB 211.**

(j) *A technical advisory committee on home health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association.*

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties.

The Committee on State Government reported **HB 199, HB 259, HR 41, HJR 20, HB 157** with Committee Substitute attached thereto, **HB 200** with Committee Amendments attached thereto, **HB 227, HB 352, HB 363,** and **SB 77** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 199, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

Upon the sine die adjournment of the General Assembly, each standing committee in the House of Representatives shall be merged with its corresponding committee in the Senate and shall be continued as a subcommittee of the Legislative Research Commission, to be known as an Interim Joint Committee, with powers to study and make recommendations as to any subject within its jurisdiction, according to the rules of the respective houses.

Section 2. KRS 7.320 is amended to read as follows:

(1) *The legislative research commission, and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies, and any other [or a] subcommittee authorized by the commission, [it] shall study and examine expenditures of state agencies. The commission may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 7.310 to 7.380.*

(2) *The commission may adopt rules and prescribe procedures for the conduct of its affairs.*

(3) *The commission, and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies, and any other interim joint committee may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the Supreme Court or Franklin Circuit Court [Court of Appeals] may on application of the commission or committee in question, compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the commission or committee by its order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission or committee.*

Section 3. KRS 7.330 is amended to read as follows:

The commission, and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies, may:

(1) *Perform an audit or investigation of any accounts, books and other financial records of the state government, or of any officer, department, board, bureau, institution, commission, agency, or other unit, of the state;*

(2) *Examine and audit any fiscal books, records and accounts of custodians of public funds, and of disbursing officers of the state, making independent verification of all assets, liabilities, revenues and expenditures of the state and agencies of the state;*

Section 2. KRS 7.320 is amended to read as follows:

(1) The legislative research commission or a subcommittee authorized by it, shall study and examine expenditures of state agencies. The commission may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 7.310 to 7.380.

(2) The commission may adopt rules and prescribe procedures for the conduct of its affairs.

(3) The commission or any interim joint committee or standing committee upon a vote by a majority of its membership, may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the Court of Appeals may on application of the commission or any interim joint or standing committee, compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the commission or any interim joint committee or standing committee, by [its] order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission.

HR 41, A RESOLUTION inviting John Y. Brown, Sr., to address the House of Representatives of the General Assembly.

WHEREAS, the Honorable John Y. Brown, Sr., has in the past addressed the General Assembly on the anniversary of the birth of Abraham Lincoln; and

WHEREAS, Mr. Brown's repertoire of oratory is exceeded by none other throughout this great Commonwealth; and

WHEREAS, John Y. Brown, Sr., once having donned the headgear of a locomotive engineer in this House of Representatives, now may engineer another of his remarkable Lincoln Day addresses; and

WHEREAS, it behooves all members of this great body to enjoy the remembrance of "The Great Emancipator" in a manner unlikely to be equaled throughout their days;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Honorable John Y. Brown, Sr., be and he hereby is invited to address the House of Representatives on Tuesday, February 14, 1978, in honor of Lincoln's birthday.

Section 2. That the Clerk is hereby directed to mail a copy of this resolution to the Honorable John Y. Brown, Sr.

HJR 20, A JOINT RESOLUTION directing a study of the demand for and prospective costs of military service credit for members of Kentucky Retirement Systems and carrying an appropriation therefor.

WHEREAS, the 1974 General Assembly established a program to permit members of the Kentucky Employes Retirement System, State Police Retirement System and County Employes Retirement System who are eligible for retirement or who are vested in their respective systems to receive current service credit for a maximum of four years of military service; and

WHEREAS, implementation of the military service credit program is dependent upon the availability of funds appropriated by the General Assembly for that purpose; and

WHEREAS, the General Assembly cannot assess the need for the military service credit program nor adequately evaluate requests for appropriations for the program without information concerning the demand for and prospective costs of the program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the board of trustees of the Kentucky Retirement Systems is directed to conduct, or cause to be conducted, the necessary survey and audit to determine the number of persons, by year of commencement of membership, who became members of the Kentucky Employes Retirement System, State Police Retirement System, or County Employes Retirement System on or before December 31, 1977, who are eligible, or may become eligible to participate in the military service credit program established by KRS

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61.555(4) and (5), KRS 16.541(3), and KRS 78.545(6). The Board is further directed to determine the proportion of those eligible members, by year of commencement of membership, who are interested in participating in the program and to determine the cost to the state of funding the military service credit program for all of those eligible members who are interested in participating in the program and for each group of eligible and interested members, defined by year of commencement of membership.

Section 2. That the Board of Trustees of the Kentucky Retirement Systems shall report the findings of the study directed by Section 1 of this Resolution to the 1980 General Assembly.

Section 3. To carry out the purpose of this Resolution, there is appropriated to the Board of Trustees of the Kentucky Retirement Systems out of the General Fund in the State Treasury the sum of five thousand dollars (\$5,000) for the fiscal year 1978-79.

HB 157, AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) "Commonwealth" means the Commonwealth of Kentucky;

(3) "Corporation" means the Kentucky housing corporation created by this chapter;

(4) [(3)] "Sponsors" [, "builders" or "developers"] means persons, [nonprofit] corporations, associations, partnerships or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to persons and families of lower income, and shall include without limitation, organizations engaged in the production, origination and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended [lower income persons and families];

(5) [(4)] "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors [, builders and developers] of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees; and

(f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders and/or developers;

(6) [(5)] "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(7) [(6)] "Governmental agency" means any city, county, taxing district or other political subdivision of the Commonwealth, the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof [department, division, public agency, political subdivision or other public instrumentality of the Commonwealth, the federal government, any other state or public agency, or any two or more thereof];

(8) [(7)] "Housing development fund" means the housing development fund created by KRS 198A.080;

(9) [(8)] "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or

Section 1. KRS 160.462 is hereby repealed.

SB 42, AN ACT relating to retirement plans for non-instructional school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.841 is hereby repealed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Banking and Insurance: **HB 130, HB 133.**

Appropriations and Revenue: **HB 248, HB 210, HB 223, HB 277, HB 296.**

Counties and Special Districts: **HB 393.**

Calendar

HB 345, HB 367, HB 406, HR 21, SB 68, SB 84, SB 101, SB 117, HB 111, HB 242, HB 135, HB 98, HB 102, HB 179, HB 186, SB 58, HB 199, HB 259, HR 41, HJR 20, HB 257, HB 157, HB 200, HB 227, HB 352, HB 363, SB 77, and HB 261 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Richards, **HB 468**; Representative Thomas, **HB 143.**

Recess

Representative B. Richardson moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

The Committee on Committees appointed the following members to investigate materials distributed to members: Representatives McNutt (Chairman), DeMarcus, and Wells.

Representative Benson moved the adoption of the following Legislative Citation No. 15:

The House of Representatives hereby commends the Courier Journal and Louisville Times Newspaper Carriers of Metropolitan Louisville and Jefferson County area for their extraordinary courage and loyalty in the delivery of the newspapers during the record-breaking and devastating weather. In spite of perilous conditions of massive snowfalls, icy and hazardous streets and roads, frigid weather, "Stay Home" advisory, closing of schools, business and industries, undaunted courage enabled the newspaper carriers to continue their services. We salute them for their fortitude and dedication. (Sponsored by Representative Benson)

Agreed.

Education: **HB 536, HB 537, SB 60, SB 181, SB 198.**

Elections and Constitutional Amendments: **HB 549, HB 550.**

Health and Welfare: **HB 553, HB 555, HB 556.**

Judiciary-Courts: **HB 544, HB 552.**

Judiciary-Statutes: **HB 557, HB 561, HR 58, SB 110.**

Labor and Industry: **HB 551.**

Public Utilities and Transportation: **HB 538, HB 543, HB 547.**

State Government: **HB 541, HB 542, HB 545, HB 558, HR 56, HR 59, SB 112.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 491.**

Health and Welfare: **HB 195, SB 166.**

Judiciary-Statutes: **HB 380, HB 346, HB 494.**

Labor and Industry: **HB 438.**

Counties and Special Districts: **HB 47, HB 152.**

Cities: **HB 523, HB 461.**

Business Organizations and Professions: **HB 432.**

State Government: **HR 53, HR 54, HB 462.**

Labor and Industry: **HB 293, HB 273.**

The Clerk announced the following Bills and Resolutions have been withdrawn from posting for Committee consideration:

Public Utilities and Transportation: **HB 181.**

Judiciary-Statutes: **HB 146.**

Labor and Industry: **HB 38, HB 40.**

Report of Committees

The Committee on Rules reported **HB 86, HB 111, HB 157, HB 234, HB 257, HB 367, HB 406, SB 104, SB 58, SB 68, SB 77, HJR 20, HR 21, SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18, SB 19, SB 20, SB 21, SB 25, SB 26, SB 27, SB 31, SB 33, SB 38, SB 41, SB 42, HB 244, HB 332, HB 375, HB 377, and HB 383** have been posted for passage in Orders of the Day, February 17, 1978.

The Committee on Agriculture and Natural Resources reported **HB 359** with Committee Substitute and Committee Amendment No. 1 to the Committee Substitute attached thereto, **HB 382, SB 1, and SB 102** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

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Representative Blandford moved that **HB 367** be passed.

On the roll call the vote was yeas 64-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Hancock, Head, Holbrook, Holloway, Hurst, Ines, Isler, Johnson, Kenton, Kidd, Layman, List, Little, Mann, May, Maynard, McBee, Morris, Noe, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Schmidt, Siemens, F. Smith, Stone, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 19-W. Allen, Beshear, Cyrus, DeFalaise, DeMarcus, Hines, Jones, Kleier, Lindsay, Marcum, O'Brien, Overstreet, Plummer, Riner, Robinson, Tobin, Trevey, Van Horn, White.

HB 367 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 367** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 375 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 81-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Jones, Kenton, Kidd, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 375 was passed and the title agreed to.

Representative B. Richardson moved that consideration of **HB 377**, **HB 383**, **HB 406**, and **HJR 21** be deferred and that they retain their position in Orders of the Day. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 49**, **HB 126**, and **HCR 12** had been examined and found correctly enrolled. **HB 49**, **HB 126**, and **HCR 12** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HJR 20 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of **HJR 20**.

On the roll call the vote was yeas 73-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Johnson, Jones, Kenton, Kidd, Layman, Little, May, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Wells, White, Wilborn, Worthington, Wright. Nays 0.

HJR 20 was adopted and the title agreed to.

Representative Hancock moved that the vote by which **HJR 20** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion in regard to applying the clincher motion to **HB 375**. Agreed.

Representative B. Richardson moved that the vote by which **HB 375** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

The Speaker Pro Tempore presiding.

SB 8 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 79-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kleier, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 1-Schmidt.

SB 8 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 8** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 9 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 69-Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kleier, Layman, List, Little, May, Maynard, McBee, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, R. Smith, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 9 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 9** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 11 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Boswell, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Gray, Guy, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kleier, Layman, List, Little, Mann, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

2 J. of the House of Representatives of the Gen. Assembly of the Commonwealth of Ky. (1978) (excerpt) (ADD15-33)

JOURNAL
of the
HOUSE OF
REPRESENTATIVES
of the
GENERAL ASSEMBLY
of the
COMMONWEALTH OF KENTUCKY

Regular Session of 1978

Volume II

**Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1978, and
in the One Hundred and Eighty-sixth
Year of the Commonwealth**

**Begun on the Third Day of January, 1978, and Adjourned
Sine Die on the Eighteenth Day of March, 1978**

Paid from State Funds

LEGISLATIVE RESEARCH COMMISSION
LIBRARY

TUESDAY, MARCH 14, 1978

2129

TUESDAY, MARCH 14, 1978

FIFTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Dennis Jones, First Presbyterian Church, Frankfort.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 13, 1978 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 130, by Representative Kleier: A RESOLUTION urging the Department for Human Resources, Bureau for Social Services, to create a task force to study and review all statutes related to juvenile court dependency proceedings and actions involving the termination of parental rights, and to recommend changes in these statutes.

Senate Message

Announcing passage of **SB 363, SB 265, SB 139, SB 355, SB 357, SB 192, SB 323, SB 234, SB 345, SB 354, SB 241, SR 48, HB 263, HB 576, HB 498, HB 210, HB 11, HB 350, HB 99** with Amendments, and **HR 20** with Amendments.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **SB 278**.

Report of Committees

The Committee on Agriculture and Natural Resources reported **SB 135, SB 273** with Committee Amendment attached thereto, **SB 281** with Committee Amendment attached thereto, and **SB 304** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 135, AN ACT relating to food and cosmetics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purpose of KRS 217.005 to 217.215:

- (1) The term "secretary" means the secretary for human resources;
- (2) The term "department" means the department for human resources;
- (3) The term "person" includes individual, partnership, corporation, and association;
- (4) The term "food" means:
 - (a) Articles used for food or drink for man or other animals;
 - (b) Chewing gum; and
 - (c) Articles used for components of any such article;
- (5) The term "drug" means:
 - (a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and
 - (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and
 - (c) Articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

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SB 259 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **SB 259** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 340 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved the adoption of the Floor Amendment No. 1 to **SB 340**:

Amend printed copy of **SB 340**, page 7, line 20, by inserting after the word "government." the following: "The final decision to either approve or disapprove any project proposal shall be made no later than forty-five (45) days following official submittal by the area development district, and the area development district shall be accordingly notified at that time, with written reasons for disapproval."

Agreed.

Representative Fitzgerald moved that **SB 340**, as amended, be passed.

On the roll call the vote was yeas 93-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenther, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Iser, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright. Nays 0.

SB 340, as amended, was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **SB 340**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Patrick moved that the rules be suspended to consider the Senate Amendments to **HJR 20**.

The Chair ruled the motion out of order.

SB 337 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the following Floor Amendment No. 1 to **SB 337**:

Amend printed copy of **SB 337**, page 10, after line 7, by adding the following:

"Section 4. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of ten competent citizens of Kentucky appointed by the governor; one [non-voting] member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body; however, if the student body president is not a full-time student who maintains permanent residency in the commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this commonwealth as the student member. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The ten citizen members of the board shall annually elect one of

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SB 337 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 337** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 279, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved the adoption of the Committee Amendment No. 1 to **SB 279**. Agreed.

Representative Overstreet moved the adoption of the following Floor Amendment No. 1 to **SB 279**:

Amend printed copy of **SB 279**, page 1, line 17, by inserting brackets around the word "and" and substituting therein the word "or".

Representative DeFalaise moved that the rules be suspended to concur in the Senate Amendment to **HJR 20**.

The Chair ruled the motion out of order.

On the roll call the vote was yeas 28-W. Allen, Blythe, Brown, Dawahare, DeFalaise, Deskins, Guenther, Haering, Head, Holbrook, Isler, Johnson, Layman, Little, Marcum, Maynard, McKinney, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Romines, F. Smith, R. Smith, Trevey, Wright. Nays 53-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Hancock, Hines, Holloway, Hurst, Imes, Kenton, LeMaster, Lindsay, Mann, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Richards, B. Richardson, P. Richardson, Riner, Sale, Siemens, Stone, Tobin, Van Horn, Weinberg, Wells, Wilborn, Williams, Yates.

Floor Amendment No. 1 to **SB 279** was rejected.

Representative B. Richardson moved that **SB 279**, as amended, be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenther, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McNutt, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Trevey.

SB 279, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 279**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HB 186, HB 239, HB 299, HB 319, HB 345, HB 359, HB 383, HB 540, HB 470, HB 579, HCR 29**.

Orders of the Day (continued)

HR 46 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HR 46** be adopted.

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Motions, Petitions and Communications

Representative B. Richardson moved that **HJR 20** with Senate Amendment attached thereto be made the first order of business on Thursday, March 16, 1978 in Orders of the Day.

On the roll call the vote was yeas 58-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Foster, Gray, Guenther, Guy, Haering, Head, Holbrook, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Layman, Lindsay, Little, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Plummer, Rattliff, Richards, B. Richardson, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Weinberg, Wright. Nays 18-Bendl, Beshear, Blythe, Clarke, Craddock, Crupper, Fitzgerald, Hancock, Hines, LeMaster, Mann, McBee, McNutt, Petty, P. Richardson, Tobin, Van Horn, Williams.

The motion that **HJR 20** with Senate Amendment attached thereto, be made the first Order of the Day on Thursday, March 16, 1978 was adopted.

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so until 10:30 a.m., Wednesday, March 15, 1978. Agreed.

Representative B. Richardson moved that when the House adjourns today, it do so by voice vote. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 186, HB 239, HB 299, HB 319, HB 345, HB 359, HB 383, HB 470, HB 540, HB 579, HCR 29, SB 155, SB 175, SB 191, SB 214, SB 256, SB 291, SB 307, SB 308, SB 339, and SB 350** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications

Representative DeMarcus moved that the rules be suspended to act on the following **HR 134**:

HR 134, A RESOLUTION to adjourn the House of Representatives on this day in honor of the Lil Kentucky Colonels Cloggers square dance team.

WHEREAS, the Lil Kentucky Colonels Cloggers were able to display their superb talent by outperforming twenty-one (21) highly competent teams representing twelve (12) states in the Grand World Square Dance Championship; and

WHEREAS, the Lil Kentucky Colonels Cloggers have established a truly memorable feat by being the youngest group of square dancers ever to win the world championship; and

WHEREAS, the Lil Kentucky Colonels Cloggers have brought honor and fame to both Irvine and all of Kentucky by winning the Grand World Square Dance Championship recently held in Fontana, North Carolina; and

WHEREAS, the Lil Kentucky Colonels Cloggers have greatly contributed to both the cultural and civic fiber of our society;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, it does so in honor of the Lil Kentucky Colonels Cloggers.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the Lil Kentucky Colonels Cloggers.

Agreed.

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agencies, groups and citizens in alleviating suffering and meeting multiple needs. Approximately one-half million dollars of federal funds compensated for long hours and diligent work. We recognize Mayor Madon's leadership as President of the Chamber of Commerce, the Cumberland Valley Council and as former judge. We applaud him for his accomplishments and success. (Sponsored by Representative Patick)

Agreed.

Representative Patrick moved the adoption of the following Legislative Citation No. 21:

The House of Representatives hereby commends R. C. Miller, Mayor of Corbin, Kentucky for his laudable contribution and excellent leadership. We recognize his services on the religious, educational, civic and business levels. He has served as Superintendent of the Sunday School for 9½ years. His educational stature includes 14 years on the Kentucky State Board of Education, teacher, superintendent and chairman of the local, state and national organizations. In business he is executor of the wholesale Texaco Products. We applaud him for his great accomplishments and dedication. (Sponsored by Representative Patick)

Agreed.

Representative Hancock filed the following withdrawal notice on **HJR 20**:

I, C. M. "Hank" Hancock, Representative of the 57th District, Franklin County, hereby move to withdraw House Joint Resolution 20, which I am the sole sponsor of, pursuant to Section 727 of Mason's Manual.

"So long as no rule is violated, a bill may be withdrawn, with the consent of the body, at anytime prior to passage."

Passage being defined as being the compliance with all the forms necessary to give force and effect to the legislation. A bill is not duly enacted until it has been voted on affirmatively by both Houses in its final form.

Therefore, I move that House Joint Resolution 20 shall hereby be withdrawn.

Representative Imes filed a request to be added as a co-sponsor of **HCR 50** and **HCR 99**.

Representative B. Richardson moved that the posting requirement be waived on **SCR 55**. Agreed.

Representative McNutt moved that the rules be suspended to act on **HR 129**. Agreed.

HR 129, A RESOLUTION

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Rule 72 of the Rules of the House of Representatives is amended to read as follows:

Rule 72. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value. Such documents shall be delivered to the message room and shall upon direction of the Clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employes of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material found so distributed by unauthorized individuals shall be collected from the members' desks and treated as litter.

Representative McNutt moved the adoption of the following Floor Amendment No. 1 to **HR 129**:

Amend printed copy of **HR 129**, on page 1, line 5, after the word "member" insert the words "or gallery"

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on page 2, line 3, after the word "desks" insert the words "and the gallery"

Agreed.

Representative McNutt moved that **HR 129**, as amended, be adopted.

HR 129, as amended, was adopted by voice vote.

Representative Tobin moved that the rules be suspended to send **HJR 20** to the Committee on Judiciary-Statutes.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions.

Floor Amendment No. 3 to **SB 22** by Representative Donnermeyer.

Floor Amendment No. 1 to **SB 48** by Representative Hines.

Floor Amendment No. 2 to **SB 59** by Representative Clarke.

Floor Amendment No. 1 to **SB 59** by Representative B. Richardson.

Floor Amendment No. 2 to Committee Substitute for **SB 143** by Representative Beshear.

Floor Amendments Nos. 1, 2, 3, and 4 to **SB 173** by Representative Benson.

Floor Amendment No. 5 to **SB 173** by Representative Boatwright.

Floor Amendment No. 6 to **SB 173** by Representative DeFalaise.

Floor Amendments Nos. 7 and 8 to **SB 174** by Representative Arnold.

Floor Amendment No. 9 to **SB 174** by Representative Fitzgerald.

Floor (Title) Amendment No. 3 to **SB 193** by Representative Blythe.

Floor Amendment No. 3 to **SB 193** by Representative Blythe.

Floor Amendment No. 2 to **SB 229** by Representative Davenport.

Floor Amendment No. 3 to **SB 229** by Representative White.

Floor (Title) Amendment and Floor Amendment No. 1 to **SB 268** by Representative Lindsay.

Floor (Title) Amendment and Floor Amendment No. 2 to **SB 269** by Representative Wilborn.

Floor Amendment No. 5 to **SB 273** by Representative Blandford.

Floor Amendment No. 6 to **SB 273** by Representative Brinkley.

Floor (Title) Amendment No. 2 and Floor Amendment No. 3 to **SB 276** by Representative Lindsay.

Floor Amendment No. 4 to **SB 276** by Representative Beshear.

Floor Amendment No. 11 to **SB 289** by Representative Clarke.

Floor Amendment No. 12 to Committee Substitute for **SB 289** by Representative Jones.

Floor Amendment No. 13 to Committee Substitute for **SB 289** by Representative B. Richardson.

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Calendar

SB 217 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that it be read by title only. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 9, HB 122, HB 157, HB 179, HB 253, HB 229, HB 602, HB 609, HB 621, HB 627, HB 625, HB 665, HB 693, HCR 56, HCR 7, SR 52, SR 5, SB 292, SB 255, SB 188, SB 329, SB 16, and SB 172** had been examined and found correctly enrolled. Said Bill and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 9, HB 122, HB 157, HB 179, HB 253, HB 229, HB 602, HB 609, HB 621, HB 627, HB 625, HB 665, HB 693, HCR 56, and HCR 7 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

Speaker Pro Tempore Clapp presiding.

HJR 20, with Senate Amendment attached thereto, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that the rules be suspended for the purpose of making motions. Agreed.

Representative Hancock moved that his motion of March 15, 1978, appearing on page 437 of the handwritten Journal be ruled out of order. So ruled.

Representative Hancock moved that **HJR 20** be withdrawn, he being the only sponsor. Objection.

Representative Benson requested a ruling of the Chair as to whether the motion made by Representative Brinkley corrected the Journal of March 15, 1978.

The Chair ruled that the House had no official Journal for March 15, 1978, until the motion for approval of the Journal had been made and agreed upon by the House.

Representative Beshear questioned the Chair as to whether this ruling meant changing the Journal of March 15, 1978.

The Chair ruled that the subject is before the House as if no action had been taken on **HJR 20** on March 15, 1978, and **HJR 20** has not been withdrawn.

Representatives Beshear and McNutt appealed the ruling of the Chair.

On the roll call the vote was yeas 64-Adams, J. Allen, W. Allen, Arnold, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenther, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, Little, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Turner, Weinberg, Wells, Wright, Yates. Nays 28-Bendl, Bennett, Benson, Beshear, Blythe, Brown, Burch, Clarke, Craddock, Fitzgerald, Hancock, Hines, Kidd, List, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, Thomas, Tobin, Trevey, Van Horn, Wilborn, Williams, Worthington.

Speaker Kenton presiding.

The ruling of the Chair was sustained.

Speaker Pro Tempore Clapp presiding.

Representative Clarke requested a ruling of the Chair as to whether the Senate Amendment was germane to **HJR 20**.

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The Chair ruled the Senate Amendment to **HJR 20** germane.

Representatives Fitzgerald and Blythe appealed the ruling of the Chair.

Speaker Kenton presiding.

On the roll call the vote was yeas 60-J. Allen, W. Allen, Arnold, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Carpenter, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenther, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stewart, Stone, Turner, Wells, Wright, Yates. Nays 35-Bendl, Bennett, Benson, Beshear, Blythe, Brown, Burch, Clarke, Craddock, DeMarcus, Fitzgerald, Hancock, Hines, Kenton, Kidd, LeMaster, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, R. Smith, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington.

The ruling of the Chair was sustained.

Speaker Pro Tempore Clapp presiding.

Representative Bendl moved that **HJR 20** be sent to the Committee on Appropriations and Revenue for fiscal impact statement.

On the roll call the vote was yeas 31-Bendl, Bennett, Benson, Beshear, Blythe, Clarke, Craddock, DeMarcus, Fitzgerald, Hancock, Hines, Jones, Kidd, LeMaster, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington. Nays 61-Adams, J. Allen, W. Allen, Arnold, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenther, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Layman, Mareum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stewart, Stone, Wright, Yates.

The motion that **HJR 20** be sent to the Committees on Appropriations and Revenue was rejected.

Representative Tobin moved that **HJR 20** be read at length. Agreed.

Representative DeFalaise moved the adoption of the previous question on **HJR 20**, not to preclude Representative Hancock's pending motion.

On the roll call the vote was yeas 61-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenther, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, Little, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, Stewart, Stone, Van Horn, Weinberg, Wright, Yates. Nays 25-Bendl, Benson, Blythe, Craddock, DeMarcus, Deskins, Fitzgerald, Hines, Kidd, LeMaster, Lindsay, List, Mann, McBee, McKinney, McNutt, Petty, Rattliff, Siemens, R. Smith, Thomas, Tobin, Turner, Wilborn, Williams.

The motion that the previous question be adopted, not to preclude Representative Hancock's pending motion, was adopted.

Representative Hancock moved that **HJR 20** be withdrawn, he being the only sponsor.

On the roll call the vote was yeas 35-Bendl, Bennett, Benson, Beshear, Blythe, Brown, Clarke, Craddock, Crupper, DeMarcus, Fitzgerald, Hancock, Hines, Kidd, LeMaster, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, R. Smith, Stewart, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington. Nays 53-Adams, J. Allen, W. Allen, Arnold, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Foster, Gray, Guenther, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Richards, Riner,

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Robinson, Schmidt, F. Smith, Stone, Wright, Yates.

The motion that **HJR 20** be withdrawn was rejected.

Representative B. Richardson moved the previous question.

On the roll call the vote was yeas 10-Brown, Clarke, Davenport, Donnermeyer, Gray, List, Thomas, Van Horn, Wilborn, Williams. Nays 75-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Guentner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kidd, Layman, LeMaster, Lindsay, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Turner, Weinberg, White, Worthington, Wright, Yates.

The motion that the previous question be adopted was rejected.

Representative Hancock moved that all members have his permission to co-sponsor **HJR 20**, with Senate Amendment attached thereto. Agreed.

Representative Hancock moved that his name be withdrawn as sponsor of **HJR 20**, with Senate Amendment attached thereto.

Representative B. Richardson moved that **HJR 20**, with Senate Amendment attached thereto, be taken from Orders of the Day and placed upon its passage. Agreed.

The following members filed requests to have their names added as co-sponsors of **HJR 20**, with Senate Amendment attached thereto: Representatives Deskins, Robinson, Wright, Donnermeyer, Burnette, Guentner, Patrick, Isler, Maynard, Johnson, Riner, Boswell, W. Allen, Marcum, and Layman.

Representative B. Richardson moved that the House concur in the following Senate Amendment to **HJR 20**:

Amend printed copy of **HJR 20**, page 1, by deleting the WHEREAS clauses thereon, and substituting in lieu thereof the following:

"WHEREAS, at the First Extraordinary Session of 1972, the General Assembly of the Commonwealth of Kentucky, by Joint Resolution, ratified an amendment to the Constitution of the United States proposed by House Joint Resolution 208 of the Ninety-Second Congress (Second Session), proposing the 27th amendment to the Constitution of the United States, relative to equal rights for men and women and reading as follows:

Joint Resolution

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Article

Section 1. Equality of rights under law shall not be denied or abridged by the United States or any state on account of sex.

Section 2. The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

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Section 3. This amendment shall take effect two years after the date of ratification.

WHEREAS, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Joint Resolution of the General Assembly of the Commonwealth of Kentucky ratifying the amendment be withdrawn;";

and on page 1, line 1, by deleting said line;

and on page 2, lines 1 through 26, by deleting same;

and on page 3, line 1, by deleting same;

and on page 1, following the resolving clause, by inserting the following:

"Section 1. That the ratification of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women, effected for Kentucky by the adoption of House Joint Resolution 2 at the First Extraordinary Session of 1972 of the Kentucky General Assembly, is withdrawn the action of the General Assembly of the Commonwealth of Kentucky thereon is hereby rescinded, and House Joint Resolution 2 is repealed.

Section 2. That copies of this resolution, duly certified by the Secretary of State of the Commonwealth of Kentucky with the Great Seal of Kentucky attached thereto, be sent to the Administrator of General Services of the United States, Washington, D.C., to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States. The Secretary of State of this Commonwealth shall also cause certified copies of the resolution to be sent to the Governor of each of the United States."

Representative B. Richardson moved a ten minute limit on debate on both sides be allowed. Agreed.

Representative Beshear moved that action on **HJR 20**, with Senate Amendment attached thereto, be postponed until 11:45 p.m., March 18, 1978.

On the roll call the vote was yeas 29-Bendl, Benson, Beshear, Blythe, Brown, Clarke, Craddock, DeMarcus, Fitzgerald, Hines, Kenton, Kidd, LeMaster, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, R. Smith, Tobin, Trevey, Turner, Van Horn, Wilborn, Williams. Nays 66-Adams, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guentner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Layman, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stewart, Stone, Thomas, Weinberg, Wells, White, Worthington, Wright, Yates.

The motion that action on **HJR 20**, with Senate Amendment attached thereto, be postponed until 11:45 p.m., March 18, 1978, was rejected.

The Chair ruled that the time will be counted against each side on diversifying tactics.

Representatives Tobin and Beshear appealed the ruling of the Chair.

Speaker Kenton presiding.

On the roll call the vote was yeas 62-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Guentner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, Marcum, May, Maynard, Morris, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stewart, Stone, Turner, Wells, White, Wright, Yates. Nays 31-Bendl, Benson, Beshear, Blythe, Brown, Clarke, Craddock, DeMarcus, Fitzgerald, Gray, Hancock, Hines, Kidd, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, R. Smith, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams, Worthington.

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The ruling of the Chair was sustained.

Speaker Pro Tempore Clapp presiding.

On the roll call the vote was yeas 65-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenther, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, Lindsay, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stone, Thomas, Worthington, Wright, Yates. Nays 33-Bendl, Benson, Beshear, Blythe, Brown, Clarke, Craddock, DeMarcus, Fitzgerald, Hancock, Hines, Kenton, Kidd, LeMaster, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, Siemens, R. Smith, Stewart, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams.

The motion that the House concur in the Senate Amendment to **HCR 20** was adopted.

Representative Clarke requested that his words in explaining his vote on **HJR 20** be spread upon the Journal.

The rules of the House were not suspended. The question of the germaness of an amendment is not directly addressed in the Rules but in the absence of a specific rule Mason's manual controls. Rule 73.

Mason's manual section 402 (3) states, "To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of the motion or measure and still be germane to the subject."

Section 402 (4), "An entirely new proposal may be substituted by amendment so long as it is germane to the main purpose of the original proposal."

Further, section 731 (3) of Mason's states, "A bill after passing the house, may be materially amended in the other and passed as amended, this practice being in accordance with Common legislative procedure; and the amendments may take the form of the substitution of an entirely new bill for the bill introduced, *so long as the subject of the bill is not changed.*"

House Resolution 20 relates to Military Service Credit for retirement and the attempted amendment is clearly not germane.

Representative Benson requested that his explanation of his vote on **HJR 20** be spread upon the Journal.

Each house of the legislature has power to correct its journals so as to make them speak the truth at any time before final adjournment.

When a bill is withdrawn, the situation is as though the bill had never been before the house, and the same bill or a similar bill may be again introduced.

Representative Mann requested that his remarks in explaining his vote on **HJR 20** be spread upon the Journal.

Mr. Speaker, Ladies and Gentlemen of the House:

I would like to begin to explain my vote against rescinding the Equal Rights Amendment by quoting someone I respect very much, Father Theodore Hesburgh, President of Notre Dame University.

"Ratification of the Equal Rights Amendment would demonstrate that we are a Nation truly committed to equality. Ratification would go far toward insuring that sex like other immutable and irrelevant characteristics play no part in determining individual worth or opportunity."

I would like to close by explaining my vote to two little boys in Newport, who someday may want to know what I did as a legislator.

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Sons, I sponsored many bills. I've voted for and against many pieces of legislation. But, in the final analysis I want you to know that when your father had the opportunity, he voted to uphold the ideas and ideals he felt this country was founded on.

I wish these remarks to be spread upon the Journal.

Representative B. Richardson moved that **HJR 20**, as amended, be passed.

On the roll call the vote was yeas 61-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Lindsay, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stone, Thomas, Wright, Yates. Nays 28-Bendl, Benson, Beshear, Brown, Clarke, Craddock, DeMarcus, Fitzgerald, Hancock, Hines, Kenton, Kidd, LeMaster, List, Little, Mann, McBee, McKinney, McNutt, Petty, Sale, R. Smith, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams.

HJR 20, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HJR 20**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended to allow Representative Hancock to withdraw as sponsor of **HJR 20**.

On the roll call the vote was yeas 60-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, DeMarcus, Deskins, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Head, Hines, Holbrook, Imes, Isler, Jones, Kenton, Kidd, Layman, LeMaster, List, Little, Mann, Marcum, McKinney, McNutt, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Rattliff, P. Richardson, Sale, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams. Nays 11-DeFalaise, Dietz, Donnermeyer, Maynard, Overstreet, Patrick, Plummer, Riner, Robinson, Schmidt, Wright.

The motion that the rules be suspended to allow Representative Hancock to withdraw as sponsor of **HJR 20** was adopted.

Representative Hancock moved that his name be withdrawn as sponsor of **HJR 20**. Agreed.

Representative B. Richardson moved that the rules be suspended to allow the report of the Committee on Rules of March 15, 1978, to be considered in Orders of the Day on March 16, 1978. Agreed.

Representative B. Richardson moved that the posting requirement in regard to **SCR 55** be waived. Agreed.

Recess

Representative B. Richardson moved that the House recess until 2:15 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 686** with Amendments, **HB 628** with Amendment, **HB 760** with Amendment, **HB 156** with Amendments, **HB 717** with Amendments, **HB 392** with Amendment, **HB 393** with Amendment, **HB 331**, **HB 367**, and **HB 399**.

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JOURNAL OF THE HOUSE OF REPRESENTATIVES

Motions, Petitions and Communications

Representative B. Richardson moved that when the House adjourns, it do so by voice vote. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so until 10 a.m., March 17, 1978. Agreed.

Representative McBee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative McBee moved that he be recorded as voting "nay" on **SB 174**. Agreed.

Representative Cyrus moved the adoption of the following Legislative Citation No. 72. Agreed.

The House of Representatives hereby honors Kevin Sloas for his attainment of the rank of Eagle Scout in the Boy Scouts of America. Kevin Sloas exemplifies the outstanding character, perseverance, achievement and ambition which the Eagle Scout Award has always denoted. This body congratulates Kevin Sloas for recently receiving this recognition of his efforts and welcomes his performance as page of this body on this day. (Sponsored by Representative Cyrus)

Representative Patrick moved the adoption of the following Legislative Citation No. 68. Agreed.

The House of Representatives hereby congratulates the Anderson County High School "Lady Cats" Basketball team and their excellent coach for their outstanding performance. They were Championship winners of the Eighth Region Tournament and earned a spot in the Girls' Sweet 16. We commend them for their great team effort, competition and competency demonstrated. We are proud of the distinction they brought to themselves, their school, community, and the Commonwealth of Kentucky. We extend our very best wishes for their continued success. (Sponsored by Representative Sale)

Representative Blandford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Blandford moved that he be recorded as voting "yea" on **SB 119**. Agreed.

Representative Blythe moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Blythe moved that he be recorded as voting "nay" on **HJR 20**. Agreed.

Representative Brinkley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Brinkley moved that he be recorded as voting "nay" on **SB 317**. Agreed.

Representative Stone moved that the rules be suspended for the purpose of recording a vote. Agreed.

(Representative Stone failed to file the proper form with the Clerk.)

Representative Boswell moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Boswell moved that he be recorded as voting "yea" on **SB 119**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on **SB 184**. Agreed.

Representative B. Richardson moved that following the recess, no business be conducted other than Report of Committees, Enrollment of Bills and Resolutions and Announcements. Agreed.

(3) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction; poses a substantial threat of personal injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or the operation thereof was part of the commission of another criminal act.

(4) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity [or affinity];

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same house hold with such person.

(5) "Victim" means a resident of this state who suffers personal injury or death as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct."

On the roll call the vote was yeas 63-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, Overstreet, Pearman, Petty, Richards, B. Richardson, Riner, Sale, F. Smith, Stone, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright. Nays 17-Beshear, Blythe, Clarke, Davenport, Dawahare, DeFalaize, DeMarcus, Hurst, Lindsay, List, McNutt, Rattliff, Robinson, Siemens, R. Smith, White. Yates.

The motion that the House concur in the Senate Amendment to **HB 119** was adopted.

Representative B. Richardson moved that **HB 119**, as amended, be passed.

On the roll call the vote was yeas 76-Adams, Arnold, Bendl, Bennett, Benson, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gay, Gray, Guenther, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Tobin, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 119, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 119**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker assumed the Chair and called the House to order.

Report on Enrolled Bills

The Committee on Enrollment reported **HJR 20, HB 110, HB 114, HB 143, HB 182, HB 202, HB 233, HB 245, HB 262, HB 317, HB 337, HB 339, HB 372, HB 375, HB 382, HB 423, HB 441, HB 458, HB 468, HB 474, HB 476, HB 496, HB 481, HB 501, HB 526, HB 502, HB 17, SB 304, SB 257, SR 45, SR 35, SR 33** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HJR 20, HB 110, HB 114, HB 143, HB 182, HB 202, HB 233, HB 245, HB 262, HB 317, HB 337, HB 339, HB 372, HB 375, HB 382, HB 423, HB 441, HB 458, HB 468, HB 474, HB 476, HB 496, HB 481, HB 501, HB 526, HB 502, and **HB 17** delivered to the Senate, signed by President. Ordered delivered to the Governor.

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assistance and that of the teachers at Conkwright Junior High School. His excellent leadership and dedication merit highest commendation. (Sponsored by Representative P. Richardson)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion in regard to co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following member requested that their names be added as co-sponsors of Bills and Resolutions: Representative Beshear, **HB 148**; Representative F. Smith, **HB 60** and **HB 735**.

Representative Kleier moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kleier moved that he be recorded as voting "nay" on **HR 20**. Agreed.

Representative Fitzgerald moved the adoption of the following **HR 140**:

HR 140, A RESOLUTION relating to turkeys.

WHEREAS, the General Assembly has previously concerned itself with red fox, turtles and beavers; and WHEREAS, those two-legged birds with brilliant plumage and melodious voices that strut instead of walking are of equal importance; and

WHEREAS, those birds are honored and petted and fed gourmet meals; and

WHEREAS, those birds are ushered upon the sacramental alter, relieved of all their encumbrances, filled with internal good; and

WHEREAS, those birds are anointed with exotic emulsions, embellished with elaborate carvings, escorted into the inner sanctum and treated to thermostatically controlled temperature in preparation to participate in the ceremonial rites for the entertainment and pleasure of a carefully chosen audience; and

WHEREAS, after the pomp and pageantry of the ceremonial rites do come to pass, the carcass is tossed to the dogs and a few bones become interred; and

WHEREAS, these interred bones will one day be resurrected and forevermore be your albatross; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the 1978 House of Representatives does hereby honor and award all turkeys, real and symbolic, and does direct the House Clerk to send a copy of this resolution, along with accompanying presents, to the West end of the 3rd floor, Capitol, with our best wishes, regards and condolences.

Agreed.

Representative Deskins moved the adoption of the following Legislative Citation No. 48:

The House of Representatives hereby congratulates Pikeville High School football team and fine Coach, Hillard Howard for your excellent record as Championship winners in both the district and regional competitions. We are proud of your great team effort and high level of competition and competency. Your performance is a great tribute to you, your school and the community. We applaud you and express our best wishes for your continued success. (Sponsored by Representative Deskins)

Agreed.

Representative Deskins moved the adoption of the following Legislative Citation No. 49:

The House of Representatives hereby commends Dan Thomas, Branch Manager, and all personnel at the Wayne Supply Company, Pikeville, Kentucky, for their outstanding contribution during the most devastating flood in Pikeville's History. The facilities of the Warehouse were made available to the Citizens of Pikeville. Housing accommodations, food and shelter were provided with the excellent assistance of the National Guard and the Red Cross. The Wayne Supply Company aided in the distribution of needed electrical power. We appreciate their fine contribution in alleviating suffering. We extend to them our very best wishes. (Sponsored by Representative Deskins)

Agreed.

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The Journal of the House of Representatives was read, compared and approved. The House adjourned sine die.

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(3) 1
illegal.

This 1

/s/William G. Kenton
APPROVED: William G. Kenton, Speaker
House of Representatives

/s/ Sara Bell
ATTEST: Sara, Chief Clerk

Governor

VETO MESSAGES

(Spread Upon the Register of the
Secretary of State After Sine Die Adjournment)

HB 420

House Bill 420 is vetoed because shifting the burden for filing the reports from the candidate to the treasurer effectively precludes enforcement of the requirements for public disclosure.

s/Julian M. Carroll
Governor

March 25, 1978

HB 638

By the authority granted by Section 88 of the Kentucky Constitution I am vetoing House Bill 638 because Senate Floor Amendment No. 2, which was adopted by both houses, and which permits a teacher to be granted membership in the teachers retirement system without meeting the normal eligibility conditions previously necessitated by KRS Chapter 161, further expands the unfunded liability for the system.

s/Julian M. Carroll
Governor

March 30, 1978

HB 643

By the authority granted by Section 88 of the Kentucky Constitution I am vetoing House Bill 643 because it mandates that at least three-fourths of the advisory board membership represent the day care industry, and that board as created would effectively regulate itself which is not in the public interest.

s/Julian M. Carroll
Governor

March 30, 1978

HJR 20

WHEREAS, the official records of the Secretary of State reflect the fact that the Governor of the Commonwealth of Kentucky is "absent from the State" within the meaning of section 84 of the Constitution of Kentucky, and

WHEREAS, in such circumstances, it becomes incumbent upon the Lieutenant Governor to discharge the duties of the office of the Governor,

NOW, THEREFORE, HJR 20, 1978 Regular Session of the General Assembly of Kentucky should be and it hereby is vetoed.

Conformable to the requirements of Section 88 of the Constitution of Kentucky the objects and reasons for the veto of HJR 20 are:

- (1) It is not in the best interest of the people of the Commonwealth of Kentucky;

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(2) The General Assembly of Kentucky was powerless to rescind the action previously it had taken on the identical subject matter of **HJR 20**.

(3) The manner in which **HJR 20** obtained concurrence by both Houses of the General Assembly were illegal.

This the 20th day of March, 1978.

s/Thelma L. Stovall

Governor

HISTORY OF HOUSE RESOLUTIONS

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	Introduced	Referred	Reported	1st	Readings 2nd	3rd	Adopted	Senate Message	Enrolled	Voting	Other Action
HJR 20	95	114	502	504	538	713		2129	2390	713 / 2352	155 628 2205 2207 2210 2340 2341 2347 2348 2349 2350 2351 2352 2372 2499 2508
HR 21	114	142	464	467	538	780				780	172 628 713 773
HR 22	114						117				
HR 23	117						117	133			
HJR 24	142	155									213 455
HR 25	142						143				
HCR 26	142	155	178	178	213	285				286	155 215 243 286 243 284 306 312 524 541 597 602
HR 27	155	164	302	306	364	597	597				598 284 524 541 531 789
HR 28	155	164	303	306	364	597				598	284 524 541 531 789
HCR 29	155	164	647	652	710		875	2207	2210		
HR 30	160						160				
HR 31	163	178									
HR 32	164	178									309
HCR 33	177	212	288	295	364	598				598	218 368 524 541 598 602
HJR 34	210	210	211	211	213	243		367	370	243	210 214 215 373
HJR 35	212	218	1095	1138	1217	1921				1921	214 594 1378
HR 36	217	246	303	307	364	598				598	284 524 541
HR 37	246	288									462

1 J. of the Senate of the Gen. Assembly of the Commonwealth of Ky. (1978) (excerpt) (ADD34-40)

JOURNAL
of the
SENATE
of the
GENERAL ASSEMBLY
of the
COMMONWEALTH OF KENTUCKY

Regular Session of 1978

Volume I

**Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1978, and
in the One Hundred and Eighty-sixth
Year of the Commonwealth**

**Begun on the Third Day of January, 1978, and Adjourned
Sine Die on the Eighteenth Day of March, 1978**

Paid from State Funds

LEGISLATIVE RESEARCH COMMISSION
LIBRARY

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JOURNAL OF THE SENATE

TUESDAY, FEBRUARY 21, 1978

THIRTY-EIGHTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Stovall.

Prayer by Senator Doug Moseley, of Adair County.

The roll was called. All Senators present

Senator Garrett moved that the reading of the Journal of February 17, 1978, be dispensed with and the same approved. Agreed.

House Message

Announcing passage of **HB 111, HB 186, HB 234, HB 244, HB 257, HB 367, HB 375, HJR 20, SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18** and **SB 104** with letter attached thereto.

Introduction of Bills and Resolutions

SB 306, by Senator Sullivan: AN ACT relating to the court of justice.

SB 307, by Senator Garrett: AN ACT relating to energy.

SB 308, by Senators Karem and Garrett: AN ACT relating to higher education assistance.

SB 309, by Senators Stamper, Garrett and McCuiston: AN ACT relating to revenue and taxation.

SB 310, by Senator Ackerson: AN ACT relating to education.

Reference of Bills and Resolutions

The Clerk reported that the following bills and resolutions had been referred by the Committee on Committees:

Agriculture and Natural Resources: **SB 301, SB 304, HB 245, HB 345.**

Banking and Insurance: **HB 299.**

Business Organizations and Professions: **SB 303.**

Cities: **HB 242.**

Counties and Special Districts: **SB 299.**

Education: **SB 297.**

Health and Welfare: **HB 179.**

Highways and Traffic Safety: **HB 200.**

Judiciary-Courts: **SB 302.**

Judiciary-Statutes: **SB 298, HB 304, HB 298, HB 269, HB 98.**

Labor and Industry: **SB 300.**

State Government: **SB 305, HB 352, HB 363.**

WEDNESDAY, FEBRUARY 22, 1978

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Banking and Insurance: **HB 375.**

Business Organizations and Professions: **SB 314.**

Cities: **SB 311, HB 257.**

Education: **SB 308, SB 312.**

Health and Welfare: **HB 186.**

Public Utilities and Transportation: **HB 244.**

State Government: **SB 307, HB 111, HJR 20.**

Report of Committees

Committee on Rules reported **SB 249** with expression of opinion that same should pass. Ordered placed in the Orders of the Day for February 22, 1978.

Committee on Rules reported **HJR 5, HB 46** with Committee Amendment and with floor amendment attached thereto, **HB 282, SB 174** with Committee Substitute attached thereto, **SB 113** with Committee Amendment attached thereto, **SB 214, SB 222, SJR 19, HB 90, SB 133** with Committee Amendment attached thereto, **SB 136** with Committee Amendment attached thereto, and **SB 233** with expression of opinion that same should pass. Ordered placed in the Orders of the Day for February 23, 1978.

Committee on Rules reported **SB 250** with expression of opinion that same should pass. Ordered placed in the Orders of the Day for February 24, 1978.

Committee on Rules reported that **SB 168** with Committee Amendment attached thereto has been assigned to the Committee on Judiciary-Courts for study.

Committee on Rules reported **SB 195** with floor amendments attached thereto has been assigned to the Committee on State Government for further study.

Committee on Rules reported **SB 104** with House Amendment attached thereto has been recommitted to the Committee on Education for study and recommendation on concurrence in the House Amendment.

Report on Enrolled Bills and Resolutions

Committee on Enrollment reported that **HB 69, SB 67, SB 8, SB 14, SB 15, SB 18, SB 11, SB 9** and **SB 12** has been examined and found correctly enrolled. **HB 69, SB 67, SB 8, SB 14, SB 15, SB 18, SB 11, SB 9** and **SB 12** read at length, compared and signed in open session by the President. Ordered delivered to the House.

Motions, Petitions and Communications

Senator Huff moved that the rules be suspended for the purpose of introducing bills. Agreed.

Introduction of Bills and Resolutions (continued)

SB 321, by Senator Huff: AN ACT relating to education.

SB 322, by Senator Ackerson: AN ACT relating to medical assistance.

SB 323, by Senator Ford: AN ACT relating to the involuntary commitment of alcoholics.

SJR 39, by Senators Gibson, Allen, Prather, Wright, Huff, Stamper, Middleton, Miller, Murphy, Rose, Friend, Karem and Ford: A JOINT RESOLUTION directing the Department of Education to comply with the directives of the Consumer Education Act.

FRIDAY, MARCH 3, 1978

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Committee on Rules reported that **SB 220** with Committee Amendment attached thereto has been assigned to the Committee on State Government for further study.

Committee on Rules reported that **SB 135** has been recommitted to the Committee on Agriculture and Natural Resources for further study.

Committee on Rules reported that **SB 281** has been recommitted to the Committee on Agriculture and Natural Resources for further study.

Committee on Rules reported that **SB 304** has been recommitted to the Committee on Agriculture and Natural Resources for further study.

Committee on Rules reported that **SB 347** has been recommitted to the Committee on Agriculture and Natural Resources for further study.

Committee on Rules reported that **SB 205** has been recommitted to the Committee on Agriculture and Natural Resources for further study.

Committee on State Government reported **SJR 44, SCR 45, SCR 46, SCR 52, SCR 55, SB 283, SB 336, HJR 20** and **HB 44** with Committee Amendment attached thereto with expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 44, A JOINT RESOLUTION directing the creation of a permanent and functioning rail transportation task force.

WHEREAS, the fast and efficient movement by rail of Kentucky coal and grain is essential to the economic well-being of mining and agriculture in the Commonwealth, and to the transporting of vital fuels and foodstuffs to the consuming public; and

WHEREAS, shortages of rail hopper cars and other railroad-related problems are hampering the movement of these valuable and necessary commodities; and

WHEREAS, a bill is now before this Assembly to establish a Kentucky Coal and Grain Transportation Authority with power to issue bonds for rail transport improvements; and

WHEREAS, a temporary task force on coal transportation has resolved that a permanent and functioning Task Force be established to review on a continuing basis all rail transportation problems, including financing, and to recommend courses of action;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That a Rail Transportation Task Force be appointed by the Governor.

Section 2. That the Commissioner of Commerce will act in the capacity as Chairman and will administer the day-to-day activities of the Task Force.

Section 3. The membership of the Task Force will not exceed twenty members and will be drawn from the railroad, coal mining, and utility companies, and will include as ex-officio members the Commissioner of Agriculture and the Secretary of the Department of Transportation.

Section 4. That no appropriation of monies is necessary for the establishment and operation of such Task Force as this will be borne by the Department of Commerce.

Section 5. The Task Force will be charged with the responsibility of reviewing all rail transportation problems. Decisions concerning the solution of these problems will be reported to the Governor.

SCR 45, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct an independent study on the costs to Kentucky pharmacists to dispense prescriptions paid for by the medicaid program.

WHEREAS, the costs to pharmacists to dispense prescriptions paid for by medicaid was a subject of great controversy during the 1978 General Assembly; and

WHEREAS, during the 1978 General Assembly, several different surveys and studies were cited by both the

SB 336, AN ACT relating to the Kentucky pollution abatement authority.

WHEREAS, in 1972 the general assembly of Kentucky established the Kentucky pollution abatement authority upon determining that pollution was seriously harming Kentucky's water resources; and

WHEREAS, the Kentucky pollution abatement authority has heretofore performed valuable services in protecting the health, welfare and safety of the inhabitants of the Commonwealth of Kentucky; and

WHEREAS, Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes authorize cities and counties to undertake on behalf of qualifying entities the financing of the construction and acquisition of pollution control facilities, and it is appropriate and proper that Kentucky pollution abatement authority be granted similar authority, it being stipulated in all such cases that any such financings be payable solely and only from payments made by assisted enterprises, and it is also appropriate that the authority be authorized to carry out such financings pursuant to undertakings whereby issues of securities in connection therewith are guaranteed by the United States small business administration;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

As used in this Act, the term "pollution control facilities" shall have the meaning ascribed to such term by KRS 103.246.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The Kentucky pollution abatement authority, a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, duly created and existing pursuant to KRS Chapter 224A, is hereby granted all rights, powers and privileges which are granted to cities and counties pursuant to the provisions of KRS 103.200 to 103.285, inclusive, but only in respect of the financing by the Kentucky pollution abatement authority of pollution control facilities. Such authority hereby granted to the Kentucky pollution abatement authority shall specifically include all authority granted by KRS 103.246. When the provisions of KRS 103.200 to 103.285, inclusive, are used by Kentucky pollution abatement authority in the financing of pollution control facilities, the terms "city" and "county" as used in said cited statutes shall mean and refer to the Kentucky pollution abatement authority.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The Kentucky pollution abatement authority is specifically authorized to provide financing for pollution control facilities for industrial concerns and utility companies, by the issuance of its bonds or notes in accordance with the provisions of KRS 103.200 to 103.285, inclusive; provided, however, that neither the Kentucky pollution abatement authority nor the Commonwealth or any political subdivision of the Commonwealth shall be pecuniarily responsible or liable in any manner for the payment of principal of and interest on bonds or notes issued by the Kentucky pollution abatement authority pursuant to this Act, such bonds or notes to be payable solely and only from revenues, receipts and payments derived from the lease, sale or vesting of such pollution control facilities in and to industrial concerns and utility companies with whom the authority contracts and from no other source whatsoever; provided, however, that the authority may additionally enter into such agreements with the United States small business administration as shall be necessary in connection with the financing of pollution control facilities in order to provide for the guarantee of bonds or notes of the Kentucky pollution abatement authority by the United States small business administration.

HJR 20, A JOINT RESOLUTION directing a study of the demand for and prospective costs of military service credit for members of Kentucky Retirement Systems and carrying an appropriation therefor.

WHEREAS, the 1974 General Assembly established a program to permit members of the Kentucky Employees Retirement System, State Police Retirement System and County Employees Retirement System who are eligible for retirement or who are vested in their respective systems to receive current service credit for a maximum of four years of military service; and

WHEREAS, implementation of the military service credit program is dependent upon the availability of funds appropriated by the General Assembly for that purpose; and

WHEREAS, the General Assembly cannot assess the need for the military service credit program nor adequately evaluate requests for appropriations for the program without information concerning the demand for and prospective costs of the program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

FRIDAY, MARCH 3, 1978

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Section 1. That the board of trustees of the Kentucky Retirement Systems is directed to conduct, or cause to be conducted, the necessary survey and audit to determine the number of persons, by year of commencement of membership, who became members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System on or before December 31, 1977, who are eligible, or may become eligible to participate in the military service credit program established by KRS 61.555(4) and (5), KRS 16.541(3), and KRS 78.545(6). The Board is further directed to determine the proportion of those eligible members, by year of commencement of membership, who are interested in participating in the program and to determine the cost to the state of funding the military service credit program for all of those eligible members who are interested in participating in the program and for each group of eligible and interested members, defined by year of commencement of membership.

Section 2. That the Board of Trustees of the Kentucky Retirement Systems shall report the findings of the study directed by Section 1 of this Resolution to the 1980 General Assembly.

Section 3. To carry out the purpose of this Resolution, there is appropriated to the Board of Trustees of the Kentucky Retirement Systems out of the General Fund in the State Treasury the sum of five thousand dollars (\$5,000) for the fiscal year 1978-79.

HB 44, AN ACT creating a department of buildings, housing and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 198B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes; including among others:

- (a) Armories;
- (b) Assembly halls;
- (c) Auditoriums;
- (d) Bowling alleys;
- (e) Broadcasting studios;
- (f) Chapels;
- (g) Churches;
- (h) Clubrooms;
- (i) Community buildings;
- (j) Courthouses;
- (k) Dance halls;
- (l) Exhibition rooms;
- (m) Gymnasiums;
- (n) Hotels;
- (o) Lecture rooms;
- (p) Lodge rooms;
- (q) Motels;
- (r) Motion picture theaters;
- (s) Museums;
- (t) Night clubs;
- (u) Opera houses;
- (v) Passenger stations;
- (w) Pool rooms;
- (x) Recreation areas;
- (y) Restaurants;
- (z) Skating rinks;
- (aa) Television studios;
- (bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation

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JOURNAL OF THE SENATE

MONDAY, MARCH 6, 1978

FORTY-NINTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Stovall.

Prayer by Reverend Billy G. Hurt, Pastor, First Baptist Church, Frankfort, Kentucky.

The roll was called. All Senators present.

Senator Garrett moved that the reading of the Journal of March 3, 1978, be dispensed with and the same approved.

Calendar

SB 204, SB 306, SB 310, SB 334, SB 335, SB 337, SB 340, SB 356, SB 359, SB 73, SJR 44, SCR 45, SCR 46, SCR 52, SCR 55, SB 283, SB 336, HJR 20 and HB 44 with Committee Amendment attached thereto taken from the Calendar and ordered read at length for the second time. Senator Garrett moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Senator Allen moved that he be permitted to withdraw floor amendment No. 1 to **SB 271**. Agreed.

Senator Gibson announced there will be a meeting of the Committee on Agriculture and Natural Resources Tuesday, March 7, 1978, at 9:00 a.m., in Room D, and the Committee will meet today immediately after adjournment if possible.

Senator O'Daniel moved that he be shown as co-sponsor of **SB 312**. Agreed.

Senator Friend moved that he be shown as co-sponsor of **SB 341**. Agreed.

Senator Weisenberger requested a ruling of the Chair on the Discharge Petition filed relative to taking **SJR 4** from the Committee on Elections and Constitutional Amendments.

The Chair ruled the Discharge Petition is now out of order, the petition having been filed Friday, March 3, 1978, and since Saturday, March 4, 1978, was a legislative day, the twenty-four hour time limit to consider Discharge Petitions has expired.

Orders of the Day

HB 257 Consent taken from the Orders of the Day and ordered read at length for the third time. Senator Garrett moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 32-Allen, Baker, Berry, Ford, Friend, Garrett, Gibson, Hammond, Hopkins, Huff, Hughes, Johnson, Karem, Martin, McCuiston, Meyer, Middleton, Mobley, Moloney, Moseley, Murphy, O'Daniel, Pollitte, Prather, Quinlan, Rose, Stamper, Stuart, Sullivan, Weisenberger, Wright, Yocom. Nays 0.

HB 257 was passed and the title agreed to.

HB 369 Consent taken from the Orders of the Day and ordered read at length for the third time. Senator Garrett moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 32-Allen, Baker, Berry, Ford, Friend, Garrett, Gibson, Hammond, Hopkins, Huff, Hughes, Johnson, Karem, Martin, McCuiston, Meyer, Middleton, Mobley, Moloney, Moseley, Murphy, O'Daniel, Pollitte, Prather, Quinlan, Rose, Stamper, Stuart, Sullivan, Weisenberger, Wright, Yocom. Nays 0.

2 J. of the Senate of the Gen. Assembly of the Commonwealth of Ky. (1978) (excerpt) (ADD41-48)

JOURNAL
of the
SENATE
of the
GENERAL ASSEMBLY
of the
COMMONWEALTH OF KENTUCKY

Regular Session of 1978

Volume II

**Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1978, and
in the One Hundred and Eighty-sixth
Year of the Commonwealth**

**Begun on the Third Day of January, 1978, and Adjourned
Sine Die on the Eighteenth Day of March, 1978**

Paid from State Funds

LEGISLATIVE RESEARCH COMMISSION
LIBRARY

ADD41

MONDAY, MARCH 13, 1978

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Floor amendment No. 1 to **HB 89** is as follows:

Amend printed copy of **HB 89**, page 1, line 15, by inserting after the word "waives" the words "in writing".

Senator Gibson moved the adoption of floor amendment No. 1 to **HB 89**. Agreed.

Senator Gibson moved that the rules be suspended for the purpose of offering and considering a floor amendment to **HB 89**. Agreed.

Senator Gibson offered the following floor amendment No. 2 to **HB 89**:

Amend printed copy of **HB 89**, page 2, line 9, by inserting after the word "waives" the words "in writing".

Senator Gibson moved the adoption of floor amendment No. 2 to **HB 89**. Agreed.

Senator Gibson moved that **HB 89**, as amended, be placed on passage. Agreed.

On the roll call the vote was yeas 38-Ackerson, Allen, Baker, Berry, Easterly, Ford, Friend, Garrett, Gibson, Hammond, Hopkins, Huff, Hughes, Johnson, Kareem, Martin, McCuiston, Meyer, Middleton, Miller, Mobley, Moloney, Moseley, Murphy, O'Daniel, Pollitte, Powers, Prather, Quinlan, Rogers, Rose, Sheehan, Stamper, Stuart, Sullivan, Weisenberger, Wright, Yocom. Nays 0.

HB 89, as amended, was passed and the title agreed to.

HJR 20 taken from the Orders of the Day and ordered read at length for the third time. Senator Murphy moved that it be read by title only. Agreed by a majority of members elected.

Senator Weisenberger moved that the rules be suspended for the purpose of offering an amendment to **HJR 20**.

The Chair ruled that the motion was out of order.

The following appeal of the ruling of the Chair was made:

We, the following duly elected Senators appeal the ruling of the Chair.

s/Gene Huff
s/William L. Quinlan

The President vacated the Chair, the President Pro Tempore presiding. A roll call was ordered, a YEA vote being that the motion to suspend the rules was in order, overruling the Chair.

On the roll call the vote was yeas 19-Ackerson, Allen, Baker, Berry, Gibson, Huff, Johnson, McCuiston, Miller, Moseley, Murphy, Pollitte, Quinlan, Rogers, Sheehan, Stuart, Sullivan, Weisenberger, Wright. Nays 17-Easterly, Friend, Garrett, Hammond, Hopkins, Hughes, Kareem, Martin, Meyer, Middleton, Mobley, Moloney, O'Daniel, Powers, Rose, Stamper, Yocom.

The motion to suspend the rules was declared in order.

Senator Weisenberger moved that the rules be suspended for the purpose of filing an amendment. The Chair ordered a roll call on the motion.

On the roll call the vote was yeas 20-Ackerson, Allen, Baker, Berry, Gibson, Huff, Johnson, McCuiston, Miller, Moseley, Murphy, Pollitte, Prather, Quinlan, Rogers, Sheehan, Stuart, Sullivan, Weisenberger, Wright. Nays 16-Easterly, Friend, Garrett, Hammond, Hopkins, Hughes, Kareem, Meyer, Middleton, Mobley, Moloney, O'Daniel, Powers, Rose, Stamper, Yocom.

The rules were ordered suspended for the purpose of offering an amendment to **HJR 20**.

The Chair ruled that **HJR 20** was not germane to the amendments.

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JOURNAL OF THE SENATE

The following appeal of the ruling of the Chair was made:

We, the duly elected Senators appeal the rule of the Chair.

s/Gene Huff
s/Kenneth O. Gibson

The President vacated the Chair, the President Pro Tempore presiding.

A roll call was ordered on the appeal, a YEA vote declared to be that the amendment was germane to **HJR 20**, overruling the ruling of the Chair.

On the roll call the vote was yeas 19-Ackerson, Allen, Baker, Berry, Gibson, Huff, Johnson, McCuiston, Miller, Moseley, Murphy, Pollitte, Quinlan, Rogers, Sheehan, Stuart, Sullivan, Weisenberger, Wright. Nays 17-Easterly, Friend, Garrett, Hammond, Hopkins, Hughes, Karem, Martin, Meyer, Middleton, Mobley, Moloney, O'Daniel, Powers, Rose, Stamper, Yocom.

The amendments were declared germane, the ruling of the Chair overruled.

The President Pro Tempore vacated the Chair, the President presiding.

Senator Friend moved that the Senate be in recess for thirty minutes.

Senators Berry and Allen requested a roll call on the motion to recess.

On roll call vote, the yeas 13, nays 23.

The motion to recess was defeated.

Senator Weisenberger offered the following floor amendment to **HJR 20**:

Amend printed copy of **HJR 20**, page 1, by deleting the WHEREAS clauses thereon, and substituting in lieu thereof the following:

"WHEREAS, at the First Extraordinary Session of 1972, the General Assembly of the Commonwealth of Kentucky, by Joint Resolution, ratified an amendment to the Constitution of the United States proposed by House Joint Resolution 208 of the Ninety-Second Congress (Second Session), proposing the 27th amendment to the Constitution of the United States, relative to equal rights for men and women and reading as follows:

Joint Resolution

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Article

Section 1. Equality of rights under law shall not be denied or abridged by the United States or any state on account of sex.

Section 2. The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

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WHEREAS, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Joint Resolution of the General Assembly of the Commonwealth of Kentucky ratifying the amendment be withdrawn;";

and on page 1, line 1, by deleting said line;

and on page 2, lines 1 through 26, by deleting same;

and on page 3, line 1, by deleting same;

and on page 1, following the resolving clause, by inserting the following:

"Section 1. That the ratification of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women, effected for Kentucky by the adoption of House Joint Resolution 2 at the First Extraordinary Session of 1972 of the Kentucky General Assembly, is withdrawn the action of the General Assembly of the Commonwealth of Kentucky thereon is hereby rescinded, and House Joint Resolution 2 is repealed.

Section 2. That copies of this resolution, duly certified by the Secretary of State of the Commonwealth of Kentucky with the Great Seal of Kentucky attached thereto, be sent to the Administrator of General Services of the United States, Washington, D.C., to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States. The Secretary of State of this Commonwealth shall also cause certified copies of the resolution to be sent to the Governor of each of the United States."

Senator Weisenberger moved the adoption of the floor amendment to **HJR 20**.

Senator Karem moved that the motion to adopt the floor amendment to **HJR 20** be placed on the table.

Senators Berry and Huff requested a roll call on the motion to table.

On the roll call the vote was yeas 15-Easterly, Friend, Garrett, Hammond, Hopkins, Hughes, Karem, Martin, Meyer, Middleton, Mobley, Moloney, O'Daniel, Powers, Yocom. Nays 23-Ackerson, Allen, Baker, Berry, Ford, Gibson, Huff, Johnson, McCuiston, Miller, Moseley, Murphy, Pollitte, Prather, Quinlan, Rogers, Rose, Sheehan, Stamper, Stuart, Sullivan, Weisenberger, Wright.

The motion to place the motion to adopt the floor amendment to **HJR 20** on the table was defeated.

Senator Weisenberger moved the adoption of the floor amendment to **HJR 20**.

Senators Weisenberger and Huff requested a roll call on the motion.

On the roll call the vote was yeas 23-Ackerson, Allen, Baker, Berry, Ford, Gibson, Huff, Johnson, McCuiston, Miller, Moseley, Murphy, Pollitte, Prather, Quinlan, Rogers, Rose, Sheehan, Stamper, Stuart, Sullivan, Weisenberger, Wright. Nays 14-Easterly, Friend, Garrett, Hammond, Hopkins, Hughes, Karem, Meyer, Middleton, Mobley, Moloney, O'Daniel, Powers, Yocom.

The floor amendment to **HJR 20** was adopted.

Senator Weisenberger moved the adoption of **HJR 20**, as amended.

A roll call was ordered by the Chair.

On the roll call the vote was yeas 23-Ackerson, Allen, Baker, Berry, Ford, Gibson, Huff, Johnson, McCuiston, Miller, Moseley, Murphy, Pollitte, Prather, Quinlan, Rogers, Rose, Sheehan, Stamper, Stuart, Sullivan, Weisenberger, Wright. Nays 15-Easterly, Friend, Garrett, Hammond, Hopkins, Hughes, Karem, Martin, Meyer, Middleton, Mobley, Moloney, O'Daniel, Powers, Yocom.

HJR 20, as amended, was adopted.

Senator Weisenberger offered the following floor amendment to the title of **HJR 20**:

Amend printed copy of **HR 20**, page 1, by amending the title to read as follows:

"A JOINT RESOLUTION to withdrawn the ratification by the Kentucky General Assembly of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women."

Senator Weisenberger moved the adoption of the floor amendment to the title of **HJR 20**. Agreed and the title was adopted, as amended.

Senator Weisenberger moved that the vote by which **HJR 20** was adopted be reconsidered and that said motion be placed on the table. Agreed.

Report on Enrolled Bills and Resolutions

Committee on Enrollment reported that **HB 517** and **HB 378** had been examined and found correctly enrolled. **HB 517** and **HB 378** read at length, compared and signed in open session by the President. Ordered delivered to the House.

Orders of the Day (continued)

Senator Murphy moved that the rules be suspended for the purpose of receiving reports of committees. Agreed.

Report of Committees (continued)

Committee on Banking and Insurance reported **HB 332** with Committee Amendment attached thereto, **HB 699**, **HB 722** and **HB 757** with expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 332, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The owner of a motor vehicle registered in this Commonwealth who is required by KRS 304.39-080(5) to provide the security required therein for the maintenance or use of such vehicle shall, as prima facie evidence only that such security is currently in full force and effect, affix to the rear window thereof an identifying sticker or emblem which indicates the month, day and year on which such security will expire unless renewed or replaced by said owner.
- (2) The form, content and location in which the sticker or emblem required by subsection (1) of this section shall be affixed shall be prescribed by the commissioner by regulation. All such stickers or emblems shall be supplied by or under the authority of the department of insurance and shall be serially numbered for the purpose of determining the identity of the insurer of the vehicle and its owner for which it was issued.
- (3) All stickers or emblems issued pursuant to this section shall be the property of the Commonwealth and shall be affixed by the owner to the vehicle covered by the required security only during such time as such security which it represents remains in full force and effect. Every vehicle owner shall immediately remove from such vehicle any sticker or emblem representing security which he knows has been terminated, cancelled, impaired or is otherwise ineffective to serve as security for such vehicle.
- (4) Every vehicle owner meeting the security requirements of this Subtitle through the purchase of a contract of insurance shall obtain within thirty (30) days a sticker or emblem evidencing such security from the authorized insurance company (or its authorized agent) with which he has contracted for such security. The commissioner shall furnish or authorize for each insurer sufficient quantities of such stickers or emblems as they may require for each vehicle which such insurer reasonably expects to insure during each annual period for which its policies of insurance are expected to be in force.
- (5) Every vehicle owner meeting the security requirements of this Subtitle through becoming a qualified self-insurer or an uninsured obligated government shall obtain a sticker or emblem directly from the commissioner.
- (6) Every authorized insurance company which cancels or refuses to renew any contract of insurance on any vehicle insured by it for any vehicle owner prior to the normal expiration date of the sticker or emblem which

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at length, compared and signed in open session by the President. Ordered delivered to the House.

Announcements

The Chair made the following statement concerning **HJR 20**:

Statement by Lt. Governor Thelma Stovall:

Members of the Senate:

During this session of the General Assembly I have tried to show the respect to each of you that you richly deserve—the same respect which, I felt, you owed to me. If I have failed—the failure has been a failure of the head and not of the heart, and I hope you will forgive me.

It was my hope that this Senate would conduct itself in such manner as would reflect credit on the legislative branch of the government of the Commonwealth of Kentucky. I have refrained from speechmaking but, as your presiding officer, I ask your indulgence for not more than five minutes.

A few days ago **HR 20** which was a Joint Resolution directing a study of the cost of military service credit for members of the Kentucky Retirement System came before this body for adoption or rejection.

There then occurred a series of parliamentary maneuvers which has brought our state into disrepute of the most serious nature, the practice of "piggybacking"—well organized—well directed—was put into gear.

Most high school students of civil government know and the Senate rules provide that "no amendment to a bill originating in the House of Representatives shall be in order during such final ten (10) legislative days which proposes to insert therein the text of any other bills".

These rules were adopted because the Senate believed that they were essential to orderly procedure and I have undertaken to preside in accordance with these rules.

Therefore, when an effort was made to "piggyback" **HR 20** by changing the content and the title to the resolution in such manner as would cause the Senate to rescind its previous approval the equal rights amendment to the Federal Constitution, I stuck to the rules—held the motion to be out of order.

I was motivated by two considerations:

- (1) Clearly the motion was out of order and in conflict with the rules of the Senate.
- (2) Those who sponsored the effort to "piggyback" **HR 20** did not consider, I fear, the seriousness of their act.

The Equal Rights Amendment for which I have fought hard and long simply reads: "Equality of rights under law shall not be denied or abridged by the United States or by any state on account of sex."

It seems to me that no person who claims to be fair and compassionate could find any fault or vice in this amendment. Those who do—necessarily—condone inequality on account of sex and this is neither right nor fair and the distortion about which you have heard are the figments of their own imagination.

A majority of the membership of the Senate removed me from the Chair and the President Pro Tem presided while a majority voted for the "piggyback" resolution which—to say the least of it—is of dubious legality.

The "piggyback" version of the resolution has now passed the House and has been returned to me for my signature, for the Constitution of Kentucky requires that the presiding officers of both Houses must sign bills—and presumably resolutions—in open session.

I was fully aware when I made my ruling that the action of the Senate—which was well planned—would result in great harm to my state, and particularly my city.

Since that time it has been discovered that Louisville as a convention center has been removed from the list of most important conventions. In the Courier Journal of Wednesday, March 15, 1978, is a list of important

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conventions which, the Courier says, could cost millions of dollars in revenue to the city of Louisville and its people. I have an editorial from the Lexington Herald which verifies that ERA is not the deadly monster that you saw when you took me from the Chair.

Ladies and gentlemen of the Senate, my conscience and my conviction freezes my hand. I cannot sign this legislation which in my heart I know is wrong.

In order to spare you the agony of yet another roll call, I have decided voluntarily to vacate the Chair and to permit the President Pro Tem to assume the Chair and sign the Resolution. He presided at its passage and he had as well complete the job.

I do not speak in anger. Rather, I speak in sorrow and compassion. The master of men under terrible circumstances said: "Father, forgive them, they know not what they do." And so say I to you.

Senator, you may assume the Chair.

The President vacated the Chair, the President Pro Tempore presiding.

Report on Enrolled Bills and Resolutions

Committee on Enrollment reported that **HJR 20** had been examined and found correctly enrolled. **HJR 20** read at length, compared and signed in open session by the President Pro Tempore. Ordered delivered to the House.

The President Pro Tempore vacated the Chair, the President presiding.

Recess

Senator Garrett moved that the Senate be in recess for thirty minutes for a meeting of the Committee on Rules. Agreed.

At the appointed time the President Pro Tempore assumed the Chair and called the Senate to order.

Senator Garrett moved that the rules be suspended for the purpose of receiving report of committees. Agreed.

Report of Committees

Committee on Rules reported **SB 113** with House Amendment attached thereto, **SB 348** with House Amendment attached thereto, **SB 223** with House Amendment attached thereto, **SB 222** with House Amendment attached thereto, **SB 245** with House Amendment attached thereto, **SB 102** with House Amendment attached thereto, **SB 114** with House Amendment attached thereto, **SB 215** with House Amendment attached thereto, **SB 107** with House Amendment attached thereto, **SB 124** with House Amendment attached thereto, **SB 162** with House Amendment attached thereto, **SB 299** with House Amendment attached thereto, **SB 328** with House Amendment attached thereto, **SB 131** with House Amendment attached thereto, **SB 95** with House Amendment attached thereto, **SB 149** with House Amendment attached thereto, **SB 163** with House Amendment attached thereto, **SB 118** with House Amendment attached thereto and **SB 98** with House Amendment attached thereto with the expression of opinion that same should pass. Ordered placed in the Orders of the Day for March 17, 1978.

Orders of the Day (Cont.)

HB 497 with Committee Amendment and with floor amendment attached thereto taken from the Orders of the Day and ordered read at length for the third time. Senator Garrett moved that it be read by title only. Agreed by a majority of members elected.

Senator Karem moved the adoption of the Committee Amendment to **HB 497**. Agreed.

The floor amendment No. 2 to **HB 497** is as follows:

Amend printed copy of **HB 497**, page 1, line 20, after the word "problem." by inserting the following:

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HISTORY OF HOUSE RESOLUTIONS

(Numbers refer to page of Senate Journal. The text of a resolution is given on first reading or adoption. Joint resolutions are designated HJR; concurrent resolutions are designated HCR.)

		House Message	Re-ferred	Re-ported	1st	Readings 2nd	3rd	Adopted	En-rolled	Voting	Other Action
HJR	5	152	155	302	303	311	621		717	621	606
HCR	7	365	452	1017	1017	1085	1787		1819	1788	1017
											1024
											1722
											1724
											1781
											1787
											1788
HCR	12	111	124	261	263	283		446	501		
HJR	15	116	117	130	130	139	146		152	146	
HJR	16	556	628	1098	1101	1205	1837		1885	1837	
HCR	17	1154	1166	1698	1699	1718					
HJR	20	458	507	977	980	1012	1377		1876	1379	1377
											1378
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											1380
											1875
HCR	23	107						110			116
HCR	29	608	628	911	922	962	1727		1783	1727	
HCR	33	343	365	1652	1653	1718					
HJR	34	208	232	234	234	240	247		266	247	251
HJR	35	1339	1357								
HJR	38	1168	1357								
HCR	45	1168	1357								
HCR	49	1795									
HCR	50	1154	1166	1364	1366	1719					
HJR	52	1154	1357								
HCR	56	1018	1027	1176	1177	1227	1784		1819	1784	
HJR	61	943	976	1116	1142	1205	1837		1885	1838	
HCR	67	1442	1703	1718	1718	1783	1872		2021	1872	1872
HCR	68	1165	1357								
HCR	70	1154	1166	1177	1198	1227	1872		2012	1872	
HCR	71	1168	1357	1778	1778	1783	1872		2012	1872	
HCR	72	943	976	1112	1115	1205	1873		2012	1873	
HCR	73	1168	1357	1698	1700	1718	1873		2012	1873	
HJR	74	1339	1357	1778	1778	1783	1869		2021	1869	1854
											1869
HJR	78	1168	1356	1780	1780	1783	1843		1885	1843	
HJR	79	1339	1356	1712	1712	1783	1841		1885	1841	
HCR	81	1339	1357	1778	1779	1783					
HCR	83	1339	1357	1698	1700	1718	1873		2012	1873	
HJR	86	1219	1357	1698	1701	1718	1839		1885	1839	
HCR	87	1168	1357	1735	1742	1783					1743
HCR	88	1339	1357	1654	1697	1719	1841		1885	1841	
HJR	89	1339	1357	1698	1702	1718					
HCR	94	1165	1357								
HJR	96	1719	1732	1778	1779	1783	1843		1885	1843	
HCR	99	1339	1357								
HCR	102	1339	1357	1735	1743	1783	1842		1885	1842	
HCR	110	1795									
HCR	111	1339	1357								
HCR	114	1442	1703								
HCR	116	1442	1703	1743	1744	1783	1843		1885	1843	

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Rules and Committees Senate of the Ky. Gen. Assembly for the 1978 Regular Session (excerpt) (ADD49-53)

**RULES AND COMMITTEES
SENATE
OF THE
KENTUCKY GENERAL ASSEMBLY
FOR THE
1978 REGULAR SESSION**

**This booklet has been prepared by the Legislative
Research Commission and paid for from state funds.**

**RULES OF THE SENATE
1976 EXTRAORDINARY SESSION
SESSIONS OF THE SENATE**

Rule 1. Hours of Meeting. The Senate shall meet at the call of the members. The official time shall be governed by the clock over the main entrance to the Senate Chamber.

Rule 2. Quorum. A majority of the Senators elected to the Senate shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the Senate, four Senators may adjourn or recess from day to day or from time to time and eight Senators may order a call of the Senate and send for absent Senators.

Rule 3. Call of the Senate. Upon a call of the Senate, the Clerk shall call the roll, then call the absentees again. The doors of the Senate Chamber shall then be closed and the absentees not excused by the Senate may be sent for and arrested by the Sergeant-at-Arms.

The Senate shall determine upon what conditions they shall be discharged from arrest. Senators who voluntarily appear shall be immediately admitted to the floor of the Senate

the Senate concur therein, it shall be deemed that the committee has held the bill for an unreasonable length of time, and the bill shall be considered as though it had been regularly reported and shall be read at length and ordered placed on the Calendar.

Rule 48. Procedure in Committee. The rules of procedure in the Senate shall be observed in committee insofar as the same are applicable.

BILLS AND RESOLUTIONS

Rule 49. Form of Bills; Fiscal Analysis. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of the original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the Senate until engrossed and sent to the House. One copy shall be used for committees. One copy shall be for the use of the press and shall be given to a person designated by

the press club. One copy shall be provided to the Legislative Research Commission. All copies shall be backed with a protective cover as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the Senator introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. Any section of a bill seeking to repeal a section or sections of the Kentucky Revised Statutes shall set forth in addition to the statute section number the statute section headnote as such appears in the Kentucky Revised Statutes. The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the Automated Legal Text Entry and Revision System method of preparation, or with this format for revision as to form. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 50. Introduction of Bills. Bills and resolutions may be introduced from the floor in the regular Order of Business or by filing them with the Clerk at any time that his office is open and before the Senate adjourns for the day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. No bill or resolution having the force of law, shall be introduced during the last ten (10) legislative days of the session, nor shall any amendment to a bill originating in the House of Representatives be in order during such final ten (10) legislative days which proposes to insert therein the text of any other bill. The last two legislative days shall be reserved by the Senate exclusively for the business of concurring in amended Senate bills.

Rule 51. Fiscal Note Required. A sponsor of a measure may at any time request a fiscal analysis to be made by the Legislative Research Commission upon the measure and a fiscal note attached thereto.

The chairman of the committee to which a measure has been referred may, at any time prior to the final consideration of the measure by the committee determine that a fiscal analysis is required on any measure not carrying a fiscal note.

Letter from the Office of the Kentucky Attorney General to David Karem (Mar. 29, 1978) (ADD54-55)



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
FRANKFORT

ROBERT F. STEPHENS
ATTORNEY GENERAL

March 29, 1978

Kw

Honorable David K. Karem
35th Senatorial District
2439 Ransdell Avenue
Louisville, Kentucky 40204

Dear Senator Karem:

This is in answer to your letter of March 22, 1978 in which you raise the following question:

"This letter is to request your opinion as to the effect of Lt. Gov. Stovall's veto of House Joint Resolution 20, as regards the rescision of the ratification of the Equal Rights Amendment."

HR 20 is a joint resolution to withdraw the ratification of the proposed 27th Amendment to the United States Constitution relating to equal rights for men and women enacted by the General Assembly in 1972.

Section 89 of the Constitution provides as follows:

"Every order, resolution or vote, in which the concurrence of both Houses may be necessary, except on a question of adjournment, or as otherwise provided in this Constitution, shall be presented to the Governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by a majority of the members elected to both Houses, according to the rules and limitations prescribed in case of a bill." [Emphasis Added.]

David K. Karem
March 29, 1978
Page Two

Section 84 of the Constitution provides as follows:

"Should the governor be impeached and removed from office, die, refuse to qualify, resign, be absent from the state, or be, from any cause, unable to discharge the duties of his office, the lieutenant-governor shall exercise all the power and authority appretaining to the office of the governor until another be duly elected and qualified, or the governor shall return or be able to discharge the duties of his office....." [Emphasis Added]

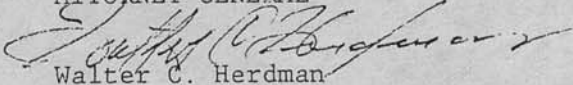
HJR 20 is a joint resolution concurred in by both Houses having we believe the foree and effect of law and would be considered in the same catagory as a legislative bill as the Rules of the General Assembly provide. See Purnell v. Mann, 105 Ky. 87, 50 S.W. 264 (1898); Commonwealth v. Lyons, 24 KLR 1747, 72 S.W. 323 (1904) and Commonwealth v. McCoun, Ky., 313 S.W.2d 585 (1968).

Thus HJR 20 stands in the same position as the 1972 Joint Resolution ratifying the 27th Amendment which was submitted to the Governor for his approval or disapproval. [Acts 1972, Ex Sess. Ch.8] but which became law without the Governor's signature on June 27, 1972. Therefore, in our opinion HJR 20 [concurred in by both Houses and having the power and effect of law] would be subject to the Governor's veto under Section 89 of the Constitution. At the same time, in the absence of the Governor, HJR 20 would be subject to veto by the Lt. Governor under her authority to act with the same power and authority as the Governor pursuant to Section 84 of the Constitution. Consequently we believe her veto of HJR 20 is valid.

There are obviously other basic legal questions involved in this matter which will no doubt be litigated along with this question. For this reason and in view of our Regulation 40KAR 1.020 we will confine our comments concerning this question to the above.

Yours very truly,

ROBERT F. STEPHENS
ATTORNEY GENERAL


Walter C. Herdman
Assistant Deputy Attorney General

WCH:ar

3 Official Report of the Proceedings and Debates in the Convention Assembled at Frankfort to Adopt, Amend or Change the Constitution of the State of Kentucky (1890) (excerpt) (ADD56-57)

OFFICIAL REPORT

--OF THE--

PROCEEDINGS AND DEBATES

--IN THE--

CONVENTION

ASSEMBLED AT FRANKFORT, ON THE EIGHTH DAY OF
SEPTEMBER, 1890, TO ADOPT, AMEND
OR CHANGE THE

CONSTITUTION

--OF THE--

STATE OF KENTUCKY.

VOLUME III.



FRANKFORT, KY.:
E. POLK JOHNSON, PRINTER TO THE CONVENTION.
1890.

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3858

LEGISLATIVE DEPARTMENT.

Thursday.]

FARMER—STRAUS.

[February 19.

Strike out all of said section after the word "House," in line six. The part proposed to be stricken out reads: "No bill shall become a law unless on its final passage it receive the votes of a majority of all the members elected to each House; the vote to be taken by yeas and nays, and entered in the Journal."

Mr. FARMER. I would express simply the opinion that we cannot have legislation with that provision; that it will be obstruction to legislation. As the law stands, whenever a measure is passed we have a right to consider that every man who is not sick has voted on it. If they do not go and vote on it, then they should be held responsible. As it is, we know it is almost impracticable or impossible to keep a large body of men together; that from ten to twenty per cent. are absent, and hence, I say, this will delay legislation, and make any thing like speedy legislation impossible. Besides, we have to correct this the veto of the Governor. The Governor is elected to take charge of the State, and if he sees any thing wrong in the legislation it is his duty to send that bill back, and let it be rejected or passed. I offer these suggestions for the consideration of the Convention.

Mr. STRAUS. The Committee had this section under consideration, and considered it very fully, and the effort of the Committee was to prevent hasty and inconsiderate, and sometimes corrupt, legislation. We also had in mind that this Convention would cut out local legislation almost entirely, and we thought it was proper that no bill affecting the whole people of the State—no general law—should become a law until it was first referred to a Committee, and then having it printed.

Sometimes it has happened in the history of our State, as of other States, that very important measures, affecting the interest of the whole people, especially revenue matters, have been introduced, without referring them to any Committee, frequently at the end of a session, without

printing, and pushed through, to the great loss and detriment of the State. We thought, if the Legislature were confined entirely to the consideration of general measures, that they ought to give each general measure that degree of consideration which would secure accuracy, and we put this in to secure that consideration. Now, under our old Constitution, the reading of a bill for three consecutive days was evaded. It was waived, by unanimous consent, and bills of every character were put through without any sort of consideration, frequently, without referring them to a Committee. To correct that evil, this section was drawn: "No bill shall be considered for final passage unless the same has been reported by a Committee, and, with the amendments thereto, printed for the use of the members; but the printing of any or all of the amendments may be dispensed with by a vote of two-thirds of either House. Every bill shall be read at length on three different days in each House. No bill shall become a law unless, on its final passage, it receives a vote of a majority of all the members elected to each House, the votes to be taken by yeas and nays, and entered on the Journal."

There was some discussion in the Committee about that part. Some of the gentlemen contended that a majority of a quorum ought to be able to legislate; but a majority of the Committee thought that no general bill ought to become a law unless a majority of the whole number of Representatives elected should concur therein; and they thought, further, that every general bill should be passed by a yeas and nays vote, and that that vote should be recorded on the Journal. There are not many general bills in the General Assembly, and not much time will be consumed by that, and the people should understand how their Representatives have acted upon every measure affecting their interest. This section is found in the Constitution of a number of States of this Union. Every State