

# Journal of the House

## TWENTY-EIGHTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, February 19, 2009, 9:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 123 members present.  
Rep. Morrison was excused on verified illness.  
Rep. Colloton was excused on excused absence by the Speaker.  
Present later: Rep. Morrison.

Prayer by guest chaplain, Pastor Charles Robinson, Northridge Church, Sabetha, and guest of Rep. Lukert:

Our Father,

Once again we come before you, recognizing your ultimate authority in our lives. This is another day, a lot like those before, where we depend on your wisdom and strength to do and to be what you have called us to do and to be. So with the many challenges that face this group of committed law makers I pray that your conviction, sense of justice and integrity will grip their hearts in such a way that this day would not be found as ordinary but that it would be filled with victorious unity as they strive to honor you and the ideals of your heart.

This we ask in the name of our Savior, Jesus, Amen.

The Pledge of Allegiance was led by Rep. Meier.

### INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Kiegerl are spread upon the journal:

During the past five years I have had the pleasure and privilege to bring nine exceptional teachers from my district to be recognized for their achievements and the awards they have earned.

We honored teachers of the year both for the state of Kansas and the nation and a recipient of the Michael Milken Award for teaching excellence and for the second time today a recipient of the American Stars of Teaching award.

Today I present three teachers from the Gardner/Edgerton School District USD 231. Audrey Baker and Katie Weil are the recipients of the 2008 Department of Education Horizon Award Exceptional first year teacher, or "Rookie of the Year." Also present are Mark Meyer and Lachelle Sigg, principals of the schools.

I should like to present Ms. Baker and Ms. Weil with the certificates of recognition from the House Chamber. Please join me in honoring them.

Our next honoree is Dr. Suzanne Blair who teaches mathematics at Gardner/Edgerton High School. She was presented the 2008 American Star Teacher award. This most prestigious award is selected from a group of 4,000 exceptional teachers nominated nationwide and only one teacher per state is chosen.

I was pleased to be present when Dr. Blair was surprised at receiving this award. The ceremony was a carefully planned secret operation. An official from the Department of Education, members of our Congressional delegation flew in from Washington and, the

mayor of Gardner, our State Senators and other dignitaries were on stage when an assembly was called. Dr. Blair had no idea that she was the center of attention until called on stage. Everyone loves surprises.

Please join me in congratulating Dr. Blair for her achievements.

#### **PERSONAL PRIVILEGE**

Rep. Loganbill recognized Rep. Meier and asked the members of the House to give her a warm send-off. Rep. Meier is being deployed to Iraq. Rep. Loganbill also presented her with a flag that will be placed on her desk in the chamber while she is away.

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**HB 2352**, An act concerning sales taxation; relating to exemptions; certain nonprofit organizations; amending K.S.A. 2008 Supp. 79-3603 and repealing the existing section, by Committee on Taxation.

**HB 2353**, An act concerning taxation; relating to the homestead property tax refund act; amending K.S.A. 2008 Supp. 79-4502 and repealing the existing section, by Committee on Taxation.

#### **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to committees as indicated:

Federal and State Affairs: **HB 2351**.

Financial Institutions: **SB 139**.

Health and Human Services: **SB 25**.

Insurance: **SB 137**.

Judiciary: **SB 135, SB 156**.

Transportation: **SB 123**.

#### **CHANGE OF REFERENCE**

Speaker O'Neal announced the withdrawal of **HB 2083** from Committee on Local Government and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2199** from Committee on Appropriations and rereferral to Committee on Education.

#### **COMMUNICATIONS FROM STATE OFFICERS**

From the Kansas Parole Board, Annual Report, Fiscal Year 2008.

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

#### **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2002**, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-6448 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 98; Nays 25; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goyle, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huntington, Jack, Johnson, Kerschen, King, Kleeb, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Roth, Ruiz, Sawyer, Schroeder, Schwartz, Seiwert, Shultz, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf.

Nays: Aurand, A. Brown, Brunk, Donohoe, Faber, Goico, Gordon, Grange, Huebert, Kelley, Kiegerl, Kinzer, Landwehr, Mast, McLeland, Merrick, Patton, Peck, Powell, Rhoades, Schwab, Siegfried, Watkins, Worley, Yoder.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed, as amended.

## EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **HB 2002**. I strongly support our military, and a second count for schools with a significant population of military children. I support additional funding to schools when they have a net increase in the number of military students they are educating.

However, to provide funding to some schools for students they are not educating is unfair to other schools. Kansas is facing a budget shortfall in FY 2010 of \$1 billion, in part to the Legislature's inability to say NO to overspending. Providing this additional \$3 million to some schools means larger cuts to other schools when we finalize the FY-10 budget.—  
VIRGIL PECK, JR., LANA GORDON, MARIO GOICO, PEGGY MAST, KASHA KELLEY, JOE MCLELAND, S. MIKE KIEGERL, RAY MERRICK, STEVE HUEBERT

**Sub. HB 2050**, An act concerning water; relating to certain fees and disbursement thereof; concerning certain water permits; amending K.S.A. 2008 Supp. 82a-708a, 82a-708b, 82a-714 and 82a-727 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 72; Nays 51; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Burgess, Carlin, Craft, Crow, Crum, Davis, DeGraaf, Finney, Flaharty, Fund, Furtado, Garcia, S. Gatewood, George, Gordon, Goyle, Grange, Hawk, Henderson, Hill, Hineman, Horst, Huntington, Johnson, Kiegerl, Kleeb, Knox, Loganbill, Lukert, Mah, McCray-Miller, Meier, Moxley, Myers, Neighbor, O'Neal, Otto, Palmer, Peterson, Phelps, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Shultz, Slattey, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley.

Nays: Aurand, A. Brown, Brunk, Burroughs, Carlson, Dillmore, Donohoe, Faber, Feuerborn, Frownfelter, D. Gatewood, Goico, Grant, Hayzlett, Henry, Hermanson, C. Holmes, M. Holmes, Huebert, Jack, Kelley, Kerschen, King, Kinzer, Kuether, Landwehr, Lane, Light, Long, Maloney, Mast, McLeland, Menghini, Merrick, Neufeld, O'Brien, Olson, Patton, Pauls, Peck, Pottorff, Powell, Schwartz, Seiwert, Siegfried, Tietze, Trimmer, Vickrey, Ward, Watkins, Yoder.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The substitute bill passed.

**HB 2060**, An act concerning crimes and punishment; relating to battery against a law enforcement officer; amending K.S.A. 2008 Supp. 21-4704 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 2; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Seiwert, Shultz, Siegfried,

Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Faber, Schwartz.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed.

**HB 2079**, An act concerning sales taxation; relating to refunds; certain purchases of telecommunications machinery and equipment, was considered on final action.

On roll call, the vote was: Yeas 100; Nays 23; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Fund, Furtado, D. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Long, Lukert, Maloney, Mast, McLeland, Meier, Merrick, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Vickrey, Watkins, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: T. Brown, Burroughs, Carlin, Craft, Crow, Finney, Flaharty, Frownfelter, Garcia, S. Gatewood, Hawk, Kuether, Lane, Loganbill, Mah, McCray-Miller, Menghini, Peterson, Sloan, Tietze, Trimmer, Ward, Whitham.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed.

**HB 2193**, An act concerning campaign finance; amending K.S.A. 2008 Supp. 25-4148 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 54; Nays 69; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Benlon, T. Brown, Burroughs, Carlin, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Hill, Huntington, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, Menghini, Moxley, Neighbor, Pauls, Peterson, Phelps, Pottorff, Quigley, Rardin, Roth, Ruiz, Sawyer, Slattery, Spalding, Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Winn, K. Wolf, Worley.

Nays: Aurand, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Maloney, Mast, McLeland, Meier, Merrick, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Peck, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Swanson, Tafanelli, Vickrey, Watkins, Whitham, Williams, B. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill did not pass.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **HB 2193** because it undermines the constitutional right to protection of political speech. An issue of this magnitude must be fully vetted through the committee process. Before the body votes to compromise our constitutional rights, we must dedicate fair and careful consideration of the possibility of unintended consequences.—LANCE KINZER, LARRY R. POWELL, ANTHONY BROWN, MARIO GOICO, CONNIE O'BRIEN, DON MYERS, GARY HAYZLETT, ARLEN H. SIEGFREID, RICHARD CARLSON, VIRGIL PECK, JR., RAY MERRICK, PEGGY MAST, S. MIKE KIEGERL, LANA GORDON, ROCKY FUND, MARC

RHOADES, DAN KERSCHEN, WILLIE PRESCOTT, MITCH HOLMES, JOE SEIWERT, MARVIN KLEEB, OWEN DONOHOE, JOHN C. GRANGE

MR. SPEAKER: I vote no on **HB 2193** as amended. I believe that it is ironic that the Goyle amendment talks about transparency, yet it denies the simple transparency of allowing our constituents the ability to speak on the issue. No bill was even introduced, thus denying our constituents a chance to come to a hearing and speak. This is not just ironic, this intentionally ignores the democratic process.—STEVE HUEBERT

MR. SPEAKER: I vote yes on **HB 2193**. This bill as amended is about shedding light on who is funding political campaigns. Kansans have a right to know who is trying to persuade them and what that person or group's motivation might be. It is time we bring transparency to our state's campaign election laws.—CHARLIE ROTH, DON HILL, KAY WOLF, SHERYL SPALDING, JILL QUIGLEY, RON WORLEY, TOM MOXLEY, TERRIE HUNTINGTON

**HB 2207**, An act concerning criminal procedure; relating to release prior to trial; costs; amending K.S.A. 22-2802 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed.

**HB 2232**, An act concerning corrections advisory boards; relating to membership; amending K.S.A. 2008 Supp. 75-5297 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 12; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kleeb, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Moxley, Myers, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, A. Brown, Faber, Hayzlett, Kinzer, Landwehr, Merrick, Neufeld, Powell, Siegfried, Vickrey, Watkins.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed.

**HB 2233.** An act concerning criminal procedure; relating to appeals; release or discharge of defendant; amending K.S.A. 22-3604 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed.

**HB 2236.** An act relating to crimes, criminal procedure and punishments; concerning drug crimes; recodification of certain statutes; amending K.S.A. 12-4419, 12-4509, 21-2501, 21-3436, 21-3608a, 21-3718, 21-3826, 21-4203, 21-4204, 21-4226, 21-4502, 21-4603d, 21-4708, 21-4713, 21-4717, 21-4729, 22-2512, 22-2515, 22-2909, 22-3901, 36-601, 36-604, 60-427, 65-4102, 65-4127c, 65-4139 and 79-5201 and K.S.A. 2008 Supp. 8-2,128, 8-1567, 12-4104, 21-4704, 21-4705, 21-4714, 22-4902, 38-2255, 44-706, 59-2132, 59-29b46, 60-4104, 65-516, 72-1397, 72-5445, 72-89c01, 75-7c04, 75-52,144 and 76-11a13 and repealing the existing sections; also repealing K.S.A. 21-4214, 21-4215, 65-4105a, 65-4127d, 65-4141, 65-4142, 65-4155, 65-4158, 65-4164 and 65-4165 and K.S.A. 2008 Supp. 65-4150, 65-4151, 65-4152, 65-4153, 65-4159, 65-4159a, 65-4160, 65-4161, 65-4162, 65-4163, 65-4166, 65-4168, 65-4168a and 65-7006, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Dillmore.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed, as amended.

**HB 2250.** An act concerning the rules of evidence; relating to admissibility of prior acts or offenses of sexual misconduct; amending K.S.A. 60-455 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Schwab.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. SPEAKER: Today I voted against **HB 2250** with misunderstanding. After gaining more information about the impact and necessity of the measure, I am in full support. It was my intent to support a motion to reconsider so that the issue could be corrected. Before that could occur, our report was read into the Senate. Let it be known I do support this bill and will continue to do so as it comes from the Senate. Thank you, Mr. Speaker.—SCOTT SCHWAB

**HB 2260**, An act concerning the Kansas home inspectors professional competence and financial responsibility act; amending K.S.A. 2008 Supp. 58-4502, 58-4503, 58-4504, 58-4505, 58-4506, 58-4509, 58-4510, 58-4511 and 58-4512 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 58-4513, was considered on final action.

On roll call, the vote was: Yeas 97; Nays 26; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Craft, Crow, Crum, Davis, DeGraaf, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kerschen, King, Kleeb, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Meier, Menghini, Moxley, Myers, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Seiwert, Shultz, Slattery, Sloan, Spalding, Svaty, Talia, Tietze, Trimmer, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, A. Brown, Carlson, Dillmore, Donohoe, Faber, Gordon, Hayzlett, M. Holmes, Kelley, Kiegerl, Kinzer, Landwehr, McLeland, Merrick, Neufeld, Peck, Powell, Schwab, Schwartz, Siegfried, Swanson, Swenson, Tafanelli, Vickrey, Ward.

Present but not voting: None.

Absent or not voting: Colloton, Morrison.

The bill passed, as amended.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Tafanelli in the chair.

#### COMMITTEE OF THE WHOLE

On motion of Rep. Tafanelli, Committee of the Whole report, as follows, was adopted: Recommended that **HB 2308**, **HB 2267**, **HB 2164**, **HB 2054**, **HB 2098**, **HB 2155** be passed.

**HB 2142**, **HB 2067**; **Sub HB 2143**; **HB 2162** be passed over and retain a place on the calendar.

Committee report to **HB 2126** be adopted; and the bill be passed as amended.

Committee report to **HB 2010** be adopted; and the bill be passed as amended.

Committee report to **HB 2297** be adopted; and the bill be passed as amended.

On motion of Rep Brookens, **HCR 5010** be amended on page 2, after line 2, by inserting the following:

“(c) When the office of lieutenant governor is vacant, the governor shall fill the vacancy by appointment for the remainder of the term.”;

Also on page 2, in line 3, by striking “lieutenant gover-”; in line 4, by striking “nor,”; in line 16, by striking “lieutenant governor,”;

And by relettering the remaining subsection accordingly;

Also, roll call was demanded on motion recommend **HCR 5010** favorably for adoption.

On roll call, the vote was: Yeas 65; Nays 50; Present but not voting: 0; Absent or not voting: 10.

Yeas: Aurand, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Fund, George, Goico, Gordon, Grange, Hayzlett, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Johnson, Kelley, Kerschen, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Merrick, Moxley, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Spalding, Swanson, Tafanelli, Vickrey, Watkins, Whitham, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Benlon, T. Brown, Burroughs, Carlin, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Huntington, Kuether, Lane, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Menghini, Neighbor, Palmer, Pauls, Phelps, Quigley, Rardin, Roth, Ruiz, Sawyer, Slattery, Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn.

Present but not voting: None.

Absent or not voting: Colloton, Donohoe, Faber, Kiegerl, King, Light, Meier, Morrison, Peterson, Sloan.

The motion prevailed and **HCR 5010** be adopted as amended.

Committee report to **HB 2197** be adopted; and the bill be passed as amended.

Committee report to **HB 2292** be adopted; and the bill be passed as amended.

Committee report to **HB 2201** be adopted; and the bill be passed as amended.

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

Committee report recommending a substitute bill to **Sub. HB 2339** be adopted; also, on motion of Rep. Worley be amended on page 14, in line 31, before “the” by inserting “or the statements on standards for attestation engagements (SSAE)”; and the substitute bill be passed as amended.

Committee report to **HB 2165** be adopted; and the bill be passed as amended.

On motion of Rep. Garcia, **HB 2125** be amended on page 1, in line 27, by striking “58-3071” and inserting “58-3701”; and the bill be passed as amended.

Rose and reported.

#### REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2095** be amended on page 2, following line 43, by inserting the following:

“(d) The board of education of any school district which has made a tax levy under subsection (b), at any time after the final levy is certified to the county clerk under any current authorization, may initiate procedures to renew its authority to make such levy in the same manner and subject to the same limitations provided in subsection (b).”;

And by relettering the remaining subsections accordingly;

On page 3, following line 6, by inserting the following:

“New Sec. 2. (a) There is hereby established in the state treasury the school district special capital outlay state aid fund. Such fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which levies a tax pursuant to section 1, and amendments thereto, shall be entitled to receive payment from the school district special



capital outlay state aid fund in an amount determined by the state board of education as provided in this subsection. The state board of education shall:

(1) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this section;

(2) determine the median AVPP of all school districts;

(3) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. The state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district, except that the state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

(5) determine the amount levied by each school district pursuant to section 1, and amendments thereto;

(6) multiply the amount computed under (5) by the applicable state aid percentage factor. The product is the amount of payment the school district is entitled to receive from the school district capital outlay state aid fund in the school year.

(c) The state board shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district special capital outlay state aid fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(d) Payments from the school district special capital outlay state aid fund shall be distributed to school districts at times determined by the state board of education. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the special capital outlay fund of the school district to be used for the purposes of such fund.”;

Also on page 3, in line 15, by striking “board” and inserting “court”; following line 18, by inserting the following:

“(b) The amount of no-fund warrants issued by a district under this section shall not exceed an amount equal to the amount necessary to pay for teacher salaries and benefits as provided in the budget of the school district adopted after July 1, 2008 and any amendment to such budget adopted prior to the effective date of this act.

(c) In each school year, each district that has issued no-fund warrants under this section is eligible for entitlement to an amount of no-fund warrant state aid. Entitlement of a district to no-fund warrant state aid shall be determined by the state board as provided in this subsection. The state board shall:

(1) Determine the amount of the assessed valuation per pupil in the preceding school year of each district in the state;

(2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (1);

(3) identify the amount of the assessed valuation per pupil located at the 81.2 percentile of the amounts ranked under (2);

(4) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3);

(5) subtract the ratio obtained under (4) from 1.0. If the resulting ratio equals or exceeds 1.0, the eligibility of the district for entitlement to no-fund warrant state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive no-fund warrant state aid in an amount which shall be determined by the state board by multiplying the amount of the no-fund warrants issued by the district by such ratio. The product is the amount of no-fund warrant state aid the district is entitled to receive for the school year.

(d) If the amount of appropriations for no-fund warrant state aid is less than the amount each district is entitled to receive for the school year, the state board shall prorate the amount appropriated among the districts in proportion to the amount each district is entitled to receive.

(e) The state board shall prescribe the dates upon which the distribution of payments of no-fund warrant state aid to school districts shall be due. Payments of no-fund warrant state aid shall be distributed to districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the district. Upon receipt of the warrant, the treasurer of the district shall credit the amount thereof to the no-fund warrant state aid fund of the district which is hereby created in each school district. Moneys in such fund shall be used to pay warrants issued pursuant to this section and any interest on such warrants.

(f) If any amount of no-fund warrant state aid that is due to be paid during the month of June of a school year pursuant to the other provisions of this section is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of no-fund warrant state aid that is due to be paid during the month of June of a school year and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

(g) For the purposes of determining the total amount of state moneys paid to school districts, all moneys appropriated as no-fund warrant state aid shall be deemed to be state moneys for educational and support services for school districts.”;

And by relettering the remaining subsection accordingly;

Also on page 3, by striking all in lines 21 through 28; following line 28, by inserting the following:

“New Sec. 4. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is \$4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.”;

On page 7, by striking all in lines 33 through 43;

By striking all on pages 8, 9 and 10;

On page 11, by striking all in lines 1 through 4;  
 And by renumbering the remaining sections accordingly;  
 Also on page 11, in line 5, by striking “, 72-6433c, 72-8801 and”; in line 6, by striking “72-8814” and inserting “and 72-6433c”;  
 In the title, in line 11, by striking “, 72-6433, 72-8801 and 72-8814” and inserting “and 72-6433”; and the bill be passed as amended.

Committee on **Government Efficiency and Fiscal Oversight** recommends **HB 2320** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2320,” as follows:

“Substitute for HOUSE BILL No. 2320

By Committee on Government Efficiency and Fiscal Oversight  
 “AN ACT concerning state finance; establishing the budget stabilization reserve fund in the state treasury; prescribing guidelines for expenditures from such fund and transfers between such fund and the state general fund; amending K.S.A. 2008 Supp. 75-3721 and repealing the existing section.”; and the substitute bill be passed.  
 (Sub. **HB 2320** was thereupon introduced and read by title.)

#### CHANGE OF REFERENCE

Speaker O’Neal announced the withdrawal of **HB 2275** from Committee on Health and Human Services and referral to Committee on Appropriations.

#### MESSAGE FROM THE SENATE

Announcing passage of **Sub. SB 28; SB 46, SB 60, SB 122, SB 145, SB 148, SB 168, SB 171, SB 187, SB 219.**

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

**Sub. SB 28; SB 46, SB 60, SB 122, SB 145, SB 148, SB 168, SB 171, SB 187, SB 219.**

On motion of Rep. Merrick, the House recessed until 1:30 p.m.

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### AFTERNOON SESSION

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

#### MESSAGE FROM THE SENATE

Announcing passage of **Sub. SB 48; SB 53, SB 64, SB 72, SB 79, SB 83; Sub. SB 89; SB 103; Sub. SB 117; SB 119, SB 134, SB 138, SB 158, SB 159, SB 173, SB 183, SB 200, SB 249.**

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

**Sub. SB 48; SB 53, SB 64, SB 72, SB 79, SB 83; Sub. SB 89; SB 103; Sub. SB 117; SB 119, SB 134, SB 138, SB 158, SB 159, SB 173, SB 183, SB 200, SB 249.**

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Peck in the chair.

#### COMMITTEE OF THE WHOLE

On motion of Rep. Peck, Committee of the Whole report, as follows, was adopted:  
 Recommended that **HB 2270, HB 2265, HB 2157** be passed.  
 Committee report to **HB 2219** be adopted; and the bill be passed as amended.  
 Committee report to **HB 2287** be adopted; also roll call was demanded on motion of Rep. Flaharty to refer the bill to Committee on Insurance.

On roll call, the vote was: Yeas 54; Nays 64; Present but not voting: 0; Absent or not voting: 7.

Yeas: Ballard, Benlon, Brookens, T. Brown, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Hill, Johnson, Kuether, Lane, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Menghini, Neighbor, Palmer, Pauls, Peterson, Phelps, Quigley, Rardin, Ruiz, Sawyer, Slattery, Spalding, Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn.

Nays: Aurand, Bethell, Bowers, A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Swanson, Tafanelli, Vickrey, Watkins, Whitham, B. Wolf, K. Wolf, Worley, Yoder.

Present but not voting: None.

Absent or not voting: Colloton, Kelley, King, Light, Meier, Roth, Schwab.

The motion of Rep. Flaharty did not prevail; and **HB 2287** be passed as amended.

Committee report to **HB 2222** be adopted; and the bill be passed as amended.

Committee report to **HB 2077** be adopted; also, on motion of Rep. Kinzer to amend, Rep. Schwab offered a motion to refer the bill to Committee on Federal and State Affairs. The motion prevailed and the bill be referred to Committee on Federal and State Affairs.

Committee report to **HB 2142** be adopted; also, on motion of Rep. A. Brown to amend, Rep. Grange requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane; and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2143** be adopted; also, on motion of Rep. Burroughs be amended on page 15, following line 4, by inserting the following:

“New Sec. 10. The provisions of sections 1 and 2, and amendments thereto, shall be known as Cody’s law.”;

By renumbering sections accordingly; and **Sub. HB 2143** be passed as amended.

Committee report to **HB 2162** be adopted; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**HB 2250, HB 2260** reported correctly engrossed February 18, 2009.

**HB 2002, HB 2193, HB 2236** reported correctly engrossed February 19, 2009.

On motion of Rep. Merrick, the House adjourned until 9:00 a.m., Friday, February 20, 2009.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

