

Journal of the House

TWENTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, February 17, 2011, 11:00 a.m.

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

The roll was called with 119 members present.

Reps. Fund, Kiegerl, O'Hara and K. Wolf were excused on verified illness.

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

Prayer by guest chaplain, the Rev. Jesse Allen, pastor, Lamont Wesleyan Church, Madison, and guest of Rep. Mast:

Heavenly Father I pray today that the Spirit of the Living God descend upon this Chamber. Today we have need of your assistance as these men and women seek to build and restore the work of the people of our state.

Lord we are in need of your wisdom. Abraham Lincoln once prayed "Oh, Thou God that heard Solomon in the night when he prayed and cried for wisdom, hear me. . . . I cannot guide the affairs of this nation without Thy help. Hear me and save this nation."

Father I pray that the fruit of your Spirit will pour over this body and may this session of the House of the great state of Kansas set out policy that leaves behind institutional thinking, and self-interest in the pursuit of justice, unity, and peace.

May the work done today be a reflection of your heart and will so all may live out the freedom reflected in the undeserved privilege we have been given by the work of your grace. In Jesus' name. Amen.

The Pledge of Allegiance was led by Rep. Grant.

Kansas Trivia Question – Dr. Samuel Crumbine, a Dodge City doctor who was the state's chief public health officer in the early 20th Century, advocated several reforms. He eliminated the public hand towel, required that hotels change bedsheets between daily guests, and also paid Kansas children a bounty for what?

Answer: Dead flies

INTRODUCTION OF GUESTS

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

The Governor signed a Proclamation that today, February 17, 2011, is Kansas Phi Theta Kappa All-State Academic Team Day. And today I am proud to introduce to you the Phi Theta Kappa All State Academic Team. Ten of those scholars are here on the Floor with me and the remainder are in the Gallery with us today.

Phi Theta Kappa is an International Honor Society for two year colleges that symbolizes excellence in higher education and a commitment to students. Students with a GPA of 3.5 or higher are invited to join Phi Theta Kappa whose mission is two-fold: to recognize and encourage the academic achievement of two-year college students, and to provide opportunities for individual growth and development through participation in honors, leadership, service and fellowship programming.

Fifty one students have been named to the All Kansas Academic Team and they represent all Nineteen Kansas community colleges from across Kansas and were named to this team based upon their academic achievement, leadership and community service.

Because of their academic achievement, service and leadership they have been awarded scholarship and stipends to complete their education and I wanted to be sure you were aware of this impressive group of young scholars from the Kansas Community Colleges.

PERSONAL PRIVILEGE

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

Mr. Speaker, thank you for the opportunity to announce the birth of my first great grandchild, Kristina Marie, six pounds, three ounces, born this morning. She is the daughter of Stephanie and Jace Carlin-McNabb. This is my 11th grandchild and the fifth one born since I became a House member in 2003. The other four were not born during the session and I wasn't able to announce them to the body. The candy will be passed out today by the doormen.

INTRODUCTION OF GUESTS

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

Today, February 17, has been designated by the Governor as Jordy Nelson Day in Kansas. Jordy led all receivers with nine catches for 140 yards, including the first touchdown for the Green Bay Packers midway through the first quarter of the Super Bowl win, defeating the Pittsburgh Steelers, 31-25.

Coming from District 106 that represents Leonardville, I have been acquainted with the family and their business for many years. It is really exciting for the people in that community to be able to have the opportunity to see a hometown boy be a part of a champion team.

Our family as K-State fans has followed Jordy during his career at K-State as a walk-on to the football program. Now I am a Green Bay Packer fan and during the season I continue to look for the #87.

The point I want to make is that rural areas aren't just about little towns – they're big communities. The little towns are part of the big community, and we get behind the individuals. I think that is what makes rural Kansas great.

Jordy has a big following and the whole State is proud of his accomplishments.

It is my honor to introduce Jordy and his family – wife, Emily, son, Royal, and parents, Alan and Kim Nelson from Leonardville.

Leonardville is a small town in North Central Kansas where the Nelson family own and manage “Nelson's Landing” – a great place to eat!

Joining me today in recognizing Jordy and his family are fellow Representatives Sydney Carlin, Vern Swanson, Susan Mosier and Vince Wetta.

Please join me in honoring Jordy today.

Rep. Schwartz presented Jordy with a framed House certificate.

INTRODUCTION OF GUESTS

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

It is a great honor for me today to introduce to you twelve year old “Burgermeister” Donovan Duggins and his parents Gwen and Maurice Duggins from Wichita.

Donovan is a 7th grade student at Robinson Middle School who, in December, won the very prestigious and competitive national 5th Annual Red Robin Kids' Cook-Off Championship in Denver, Colorado.

During the Kids' Cook-Off Championship, the top ten kid-chef finalists showed off their culinary skills by making their gourmet burger recipes in a Food Network-style showdown and presenting them to a panel of celebrity judges.

Donovan created America's next gourmet burger to support child safety – the “Mt. Vesuvius Burger.”

Donovan's “Mt. Vesuvius Burger” was named the Red Robin Kids' Cook-Off Grand-Prize Winner following an “Iron Chef”-like competition with nine other kid-chef finalists, whose burger recipes were selected from thousands of entries from across the U.S.

Contestants also shared why they thought their burger recipe should win in 100 words or less. Each kid-chef finalist was judged based on their gourmet burger recipe, essay and overall presentation.

As the grand-prize winner of a family vacation to Universal Orlando Resort, Donovan's “Mt. Vesuvius Burger,” made with a beef patty, sesame seed bun, crumbled blue cheese, bacon, provolone cheese and his own Lava Sauce consisting of sweet BBQ sauce, hot sauce, garlic powder and paprika, will be sold in all U.S. Red Robin restaurants this summer, and fifty cents of every “Mt. Vesuvius Burger” sold will support the National Center for Missing & Exploited Children's (NCMEC) child safety efforts.

In addition to Donovan's “Mt. Vesuvius Burger” winning the grand prize, his creation was also honored as the “Fan Favorite.” Through a consumer-driven online voting

process, more than 2,000 Americans voted for Donovan's "Mt. Vesuvius Burger," and he received additional prizes including a \$100 gift card to Toys "R" Us and a \$200 Red Robin gift card.

Please join me and Representative Brunk in congratulating Donovan on his outstanding achievement.

Rep. Finney presented Donovan with a framed House certificate.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

HB 2347, AN ACT concerning income taxation; relating to the earned income tax credit; amending K.S.A. 2010 Supp. 79-32,205 and repealing the existing section, by Committee on Taxation.

HB 2348, AN ACT concerning income taxation; relating to information required on returns; social security numbers; amending K.S.A. 2010 Supp. 79-3221 and repealing the existing section, by Committee on Taxation.

HB 2349, AN ACT concerning income taxation; relating to credit for dependent care expenses; social security numbers in support thereof; amending K.S.A. 79-32,111a and repealing the existing section, by Committee on Taxation.

HB 2350, AN ACT concerning property taxation; imposing a payment in lieu of tax on certain qualifying crude oil pipelines; procedure, by Committee on Taxation.

HB 2351, AN ACT concerning fiscal notes for certain legislative bills; requiring consideration of dynamic scoring analysis in preparation thereof, by Committee on Taxation.

HB 2352, AN ACT concerning property taxation; relating to exemptions; public utilities; notice and opportunity to be heard for counties; amending K.S.A. 2010 Supp. 79-213 and 79-5a27 and repealing the existing sections, by Committee on Taxation.

HB 2353, AN ACT concerning the personal and family protection act; amending K.S.A. 2010 Supp. 75-7c10 and section 194 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2354, AN ACT concerning the Kansas expanded lottery act; relating to racetrack gaming facilities; amending K.S.A. 2010 Supp. 74-8702, 74-8734, 74-8741, 74-8751 and 74-8768 and repealing the existing sections, by Committee on Federal and State Affairs.

HOUSE CONCURRENT RESOLUTION No. **HCR 5017**—

By Committee on Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to classification and taxation of watercraft.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

“§ 1. System of taxation; classification; exemption. (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, ~~1993~~ 2013, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles *and watercraft*, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located.....11½%
- (2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution.....30%
- (3) Vacant lots.....12%
- (4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law....12%
- (5) Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed.....33%
- (6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use25%
- (7) All other urban and rural real property not otherwise specifically subclassified.....30%

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Mobile homes used for residential purposes.....11½%
- (2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25%30%
- (3)Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed33%
- (4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985.....30%

(5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property 25%

(6) All other tangible personal property not otherwise specifically classified30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"*Explanatory statement.* This amendment would allow the legislature to classify and tax watercraft upon a basis different from other property.

"A vote for this proposition would permit the legislature to provide for separate classification and taxation of watercraft or to exempt such property from property taxation and impose taxes in lieu thereof.

"A vote against this proposition would continue the taxation of watercraft in the same manner as all other property."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election to be held on November 6, 2012.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture and Natural Resources: **HR 6009.**

Commerce and Economic Development: **HB 2341.**

Corrections and Juvenile Justice: **SB 60.**

Health and Human Services: **SB 5.**

Insurance: **SB 65.**

Judiciary: **HB 2343, HB 2344, HB 2345, HB 2346; SB 12, SB 34, SB 45, SB 62.**

Taxation: **HB 2342.**

Transportation: **SB 58.**

Veterans, Military and Homeland Security: **HCR 5016.**

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2321**, **HB 2322** from Committee on Corrections and Juvenile Justice and referral to Committee on Appropriations.

MESSAGES FROM THE SENATE

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2014** and has appointed Senators McGinn, Vratil and Kelly as conferees on the part of the Senate.

Also, announcing passage of **SB 37**, **SB 77**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were introduced and read by title:

SB 37, **SB 77**.

CONSENT CALENDAR

No objection was made to **HB 2074** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2071, AN ACT concerning inheritance rights; relating to revocation upon divorce, was considered on final action.

On roll call, the vote was: Yeas 100; Nays 19; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alford, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Bruchman, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, Denning, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hildabrand, Hill, Hineman, C. Holmes, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Kuether, Loganbill, Mah, McCray-Miller, McLeland, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Schroeder, Schwartz, Seiwert, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, Wolfe Moore, Worley.

Nays: Arpke, Brown, Brunk, DeGraaf, Dillmore, Donohoe, Gregory, Hermanson, Hoffman, M. Holmes, Howell, Landwehr, Lane, Mast, Meier, Powell, Scapa, Shultz, Tyson.

Present but not voting: None.

Absent or not voting: Fund, Kiegerl, O'Hara, Peterson, Schwab, K. Wolf.

The bill passed.

Sub. HB 2134, AN ACT concerning workers compensation; amending K.S.A. 44-503a, 44-510c, 44-510d, 44-510e, 44-510f, 44-515, 44-516, 44-520, 44-525, 44-528, 44-531, 44-532a, 44-534a, 44-536 and 44-5a01 and K.S.A. 2010 Supp. 44-501, 44-508, 44-510b, 44-510h, 44-510k, 44-511, 44-523 and 44-552 and repealing the existing

sections; also repealing K.S.A. 44-510a and 44-520a and K.S.A. 2010 Supp. 44-596, was considered on final action.

On roll call, the vote was: Yeas 90; Nays 29; Present but not voting: 0; Absent or not voting: 6.

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

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

Present but not voting: None.

Absent or not voting: Fund, Kiegerl, O'Hara, Peterson, Schwab, K. Wolf.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote No on **Sub. HB 2134**. The original legislation was a strong workers' compensation compromise representing hundreds of hours of negotiation between business and workers organizations that rarely agree on this very complex issue. Committee amendments, however upset the delicate balance reached by the parties who negotiated the original compromise. For this reason, I vote 'No.'-- MIKE SLATTERY, SEAN GATEWOOD, BARBARA BALLARD, ANN MAH, STAN FROWNFELETER, GAIL FINNEY, VINCE WETTA, MELODY MCCRAY-MILLER, KATHY WOLFE MOORE, ANNIE TIETZE, ED TRIMMER, JUDITH LOGANBILL, VALDENIA WINN, MELANIE MEIER, ANNIE KUETHER, PAUL DAVIS, BRODERICK HENDERSON, TOM BURROUGHS, JERRY HENRY, JANICE L. PAULS, EBER PHELPS, SYDNEY CARLIN, BOB GRANT, LOUIS RUIZ, PONKA WE VICTORS, GERALDINE FLAHARTY, NILE DILMORE

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2013**, **HB 2140** be passed.

Committee report to **HB 2029** be adopted; and the bill be passed as a amended.

Committee report to **HB 2060** be adopted; and the bill be passed as a amended.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2044** be amended

on page 1, in line 17, by striking "this section which" and inserting "subsection (a) when an accident"; in line 18, by striking "under" and inserting "of less than"; in line 22, after "\$1,000" by inserting "or more"; in line 25, by striking "5" and inserting "6";

On page 2, in line 10, after "possible," by inserting "shall immediately make efforts to determine whether any person involved in such accident was injured or killed, and"; by striking all in lines 15 through 24; following line 24 by inserting "(b) If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:

- (1) There is apparently property damage of \$1000 or more;
- (2) any person involved in the accident is injured or killed; or
- (3) the persons specified in subsection (a) are not present or in condition to receive such information.";

On page 3, in line 22, by striking "any" and inserting "such other"; in line 23, by striking "including such driver's vehicle,"; in line 32, by striking "section" and inserting "subsection"; in line 33, after "misdemeanor" by inserting "and, upon conviction shall be punished as provided in K.S.A. 8-2116, and amendments thereto";

On page 5, in line 35, after "8-1566," by inserting "8-1567,"; also in line 35, after "8-1602," by inserting "8-1605"; in line 38, after "thereto" by inserting ", or a violation of a city ordinance or law of another state which would also constitute a violation of such sections"; and the bill be passed as amended.

Committee on **Energy and Utilities** recommends **HB 2267** be passed, and because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on consent calendar.

Committee on **Energy and Utilities** recommends **HB 2141** be amended on page 1, in line 23, by striking "No interest in any resource located on a tract of land and solely"; by striking all in lines 24 through 30; and inserting "No person other than the surface owner of a tract of land shall have the right to use such land for the production of wind or solar generated energy unless granted such right by the lawful owner of the surface estate by lease or easement for a definite period."; in line 31, by striking "this act" and inserting "subsection (b)"; also in line 31, by striking "property owner"; by striking all in line 32; in line 33, by striking "any tract of land severed" and inserting "lease or easement filed of record"; also in line 33, after "1, 2011" by inserting ", with the register of deeds of the county in which the tract is located"; following in line 33, by inserting "(d) Nothing in this section shall be construed to affect any otherwise enforceable restriction on the use of any tract of land for the production of wind or solar energy whether or not such restriction is in the form of an easement for a definite term."; and the bill be passed as amended.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and concurrent resolution were thereupon introduced and read by title:

HB 2355, AN ACT concerning sales taxation; relating to food sales tax refunds; information required in support of claim; amending K.S.A. 79-3637 and repealing the existing section, by Committee on Taxation.

HOUSE CONCURRENT RESOLUTION No. **5018** –
By Committee on Education

A PROPOSITION to revise article 6 of the constitution of the state of Kansas; relating to education.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 6 of the constitution of the state of Kansas is hereby revised to read as follows:

"Article 6. -- EDUCATION

"§ 1. ~~Schools and related institutions and activities~~ System of public education. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining ~~public schools, educational institutions and related activities~~ a system of public education which may be organized and changed in such manner as may be provided by law.

"§ 2. ~~State board of education and state board of regents~~ Governance. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law. *The legislature shall make suitable provision for the governance of the system of public education and the schools and institutions that are parts of the system.*

(b) *The legislature shall provide for the supervision of elementary and secondary schools and such other educational institutions and interests.*

(b) (c) The legislature shall provide for ~~a state board of regents and for its control~~ and the supervision of public institutions of higher education. ~~Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other educational institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.~~

(d) *The legislature may provide for such other instrumentalities of governance, supervision or control of the schools, educational institutions and interests of the state as the legislature may deem necessary. Such instrumentalities shall perform such duties as may be provided by law.*

(e) (e) Any municipal university shall be operated, supervised and controlled as may be provided by law.

"§ 3. ~~Members of state board of education and state board of regents.~~ (a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of four contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The

legislature shall prescribe the manner in which vacancies occurring on the board shall be filled:

(b) ~~The state board of regents shall have nine members with overlapping terms as the legislature may prescribe. Members shall be appointed by the governor, subject to confirmation by the senate. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.~~

(c) ~~Subsequent redistricting shall not disqualify any member of either board from service for the remainder of his term. Any member of either board may be removed from office for cause as may be provided by law.~~

"§4. §3. Commissioner Secretary of education. ~~The state board of education shall appoint a commissioner of education who shall serve at the pleasure of the board as its executive officer. The governor shall appoint a secretary of education, subject to confirmation by the senate. The secretary shall serve at the pleasure of the governor and exercise such powers and perform such duties as may be provided by law.~~

"§5. §4. Local Public elementary and secondary schools. ~~Local Public elementary and secondary schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but . All such agreements shall be subject to limitation, change or termination by the legislature. The secretary of education shall exercise such supervision over the maintenance, development and operation of public elementary and secondary schools as may be provided by law.~~

"§6. §5. Finance. (a) ~~The legislature shall make suitable provision for finance of the system of public education. The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, provide for apportionment and appropriation shall continue until changed by statute. of the proceeds of such tax. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.~~

(b) ~~The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school or other public educational institution to pupils persons required by law to attend such school, except such fees or supplemental charges as may be or institution. Fees other than tuition may be charged to such persons when authorized by law. The legislature may authorize the state board of regents to establish or require the charging of tuition, and other fees and charges at institutions under its supervision. for attendance at any public school or other public educational institution to persons who are not required by law to attend such school or institution.~~

(c) No religious sect or sects shall control any part of the public educational funds.

"§7. §6. Savings clause. ~~(a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969 2012.~~

~~(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.~~

~~(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education."~~

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. The education article of the state constitution is very explicit in specifying the manner in which certain functions in the field of public education are to be performed. For example, the education article specifies that the function of governance of public schools and other public education institutions will be performed by the state board of education or the state board of regents. Since the education article is so explicit with regard to the performance of certain functions in the field of public education, the legislature is restrained from providing for changes in the performance of such functions by statute even though changes may be deemed necessary or desirable by the people.

"A vote for this proposition would not mandate a change in public education policy or governance. A vote for this proposition would amend the education article to make its operation more flexible so that the legislature, and through its members, the people, would have more freedom in providing for public education policy and governance.

"A vote against this proposition will continue in effect the present operation of the education article."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2011 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REPORT ON ENGROSSED BILLS

HB 2017 reported correctly engrossed February 16, 2011.

Also, **Sub. HB 2134** reported correctly engrossed February 17, 2011.

REPORT ON ENGROSSED RESOLUTIONS

Sub. HR 6004 reported correctly engrossed February 17, 2011.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Friday, February 18, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

