

Journal of the House

FOURTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, January 26, 2007, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Dahl in the chair.
The roll was called with 120 members present.
Rep. Powers was excused on verified illness.
Reps. Bethell and Pottorff were excused on legislative business.
Reps. Donohoe and Hodge were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Dear Father, we come to you today after a very busy week. There have been numerous bills, a lot of healthy discussion, perhaps a high level of stress, and boundless energy. Thank you for guiding us through the whole process. Help us not to rush through discussion today, but to focus on the issues. May our words be beneficial and helpful, not detrimental and useless. May we keep in mind the words of Jesus Christ as He prayed to God, “. . . your will be done on earth as it is in heaven.” In the name of Jesus I pray, Amen.

The Pledge of Allegiance was led by Rep. Kuether.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2242, An act concerning controlled shooting areas; relating to hunting license requirements; amending K.S.A. 32-946 and repealing the existing section, by Committee on Agriculture and Natural Resources.

HB 2243, An act concerning crimes and punishments; relating to the use of tobacco in a medical care facility and on medical facility property; amending K.S.A. 21-4017 and repealing the existing section, by Committee on Health and Human Services.

HB 2244, An act amending the uniform consumer credit code; relating to payday loans; amending K.S.A. 2006 Supp. 16a-2-404 and repealing the existing section, by Representatives McCray-Miller and Faust-Goudeau, Carlin, Crow, Dillmore, Flaharty, Garcia, Gatewood, Hawk, Henderson, Horst, Lane, McLachlan, Menghini, Neighbor, Palmer, Peterson, Pottorff, Powers, Rardin, Sawyer, Storm, Svaty, Swenson, Trimmer, Vickrey, Wetta and Winn.

HB 2245, An act regulating vehicle title loans, by Representatives McCray-Miller and Faust-Goudeau, Carlin, Crow, Flaharty, Garcia, Gatewood, Hawk, Henderson, Horst, Lane, Loganbill, McLachlan, Menghini, Neighbor, Otto, Palmer, Peterson, Pottorff, Powers, Rardin, Storm, Svaty, Swenson, Trimmer, Wetta and Winn.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture and Natural Resources: **HB 2208**, **HB 2234**.

Appropriations: **HB 2224**, **HB 2236**, **HB 2237**, **HB 2238**.

Commerce and Labor: **HB 2199**.

Education: **HB 2223**.

Elections and Governmental Organization: **HB 2201, HB 2217, HB 2218.**
 Energy and Utilities: **HB 2219, HB 2220, HB 2221, HB 2222, HB 2240.**
 Federal and State Affairs: **HB 2200, HB 2202, HB 2203, HB 2204, HB 2206, HB 2241.**
 Government Efficiency and Technology: **HB 2207.**
 Health and Human Services: **HB 2205, HB 2213, HB 2214, HB 2215, HB 2216, HB 2227, HB 2235, HB 2239.**
 Insurance and Financial Institutions: **HB 2212, HB 2225.**
 Judiciary: **HB 2228, HB 2229, HB 2230, HB 2231, HB 2232, HB 2233.**
 Taxation: **HB 2226.**
 Transportation: **HB 2211.**
 Veterans, Military and Homeland Security: **HB 2209, HB 2210.**

COMMUNICATIONS FROM STATE OFFICERS

TO: Speaker Melvin Neufeld
 FROM: Janet E. Jones, Chief Clerk
 DATE: January 26, 2007
 RE: Contested Election

The Chief Clerk of the House of Representatives, Janet Jones, announces she has taken custody of the court file and evidence of the proceeding (Johnson County District Court Case No. 060CV9461 of the Tenth Judicial District) involving the contested House race in the 16th District of the House of Representatives.

The House Select Committee, which will be appointed Tuesday, January 30, 2007 will determine the availability of viewing the court file and evidence.

CONSENT CALENDAR

No objection was made to **HB 2005** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2005, an act concerning economic development; relating to the Kansas center for entrepreneurship; amending K.S.A. 2006 Supp. 74-99c04, 74-99c08 and 74-99c10, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Beamer, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Collyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Donohoe, Hodge, Pottorff, Powers.

The bill passed.

HB 2032, An act concerning municipally owned or operated electric or natural gas public utilities; concerning regulation by the state corporation commission; amending K.S.A. 66-1,174 and K.S.A. 2006 Supp. 66-104 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Beamer, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Collyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Donohoe, Hodge, Pottorff, Powers.

The bill passed.

HB 2034, An act concerning public utility recovery of security expenditures; amending K.S.A. 2006 Supp. 66-1233 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 65; Nays 54; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Beamer, Bowers, Brown, Brunk, Burgess, Carlson, Collyer, Craft, Crum, Dahl, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, King, Knox, Landwehr, Light, Mah, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neufeld, O'Neal, Olson, Otto, Owens, Patton, Peck, Powell, Proehl, Rhoades, Roth, Schroeder, Shultz, Siegfried, Sloan, Spalding, Swanson, Tafanelli, Vickrey, Whitham, B. Wolf, K. Wolf, Worley.

Nays: Ballard, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Garcia, Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Holland, Kelley, Kinzer, Kuether, Lane, Loganbill, Long, Lukert, McCray-Miller, McKinney, McLachlan, Menghini, Neighbor, Palmer, Pauls, Peterson, Phelps, Rardin, Ruff, Ruiz, Sawyer, Sharp, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Watkins, Wetta, Wilk, Williams, Winn, Yoder.

Present but not voting: None.

Absent or not voting: Bethell, Donohoe, Hodge, Pottorff, Powers, Schwartz.

The bill passed.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **HB 2034**. I believe strongly that our public utilities should have the ability to invest in security. However, **HB 2034** allows increases in utility bills for our constituents without any explanation or oversight by legislators. It also ties the hands of the Kansas Corporation Commission to regulate effectively on their behalf. I am disappointed that we have not put the best interest of Kansas consumers first.—NILE DILLMORE

MR. SPEAKER: I am opposed to secret utility rate increases. **HB 2034** allows increases in utility bills for our constituents without any explanation or oversight by legislators. It also ties the hands of the Kansas Corporation Commission to regulate effectively on behalf of consumers and ratepayers. I am disappointed that we have not put the best interest of Kansas consumers first. I note NO on **HB 2034**.—TOM HAWK, JUDITH LOGANBILL, CINDY NEIGHBOR, MARK TREASTER, TERRY McLACHLAN, SYDNEY CARLIN.

MR. SPEAKER: **HB2034** allows for secret utility rate increases without oversight or accountability which hurts consumers. I vote to protect Kansas consumers. I vote NO on **HB 2034**.—JIM WARD, BILL FEUERBORN, ED TRIMMER

HB 2039, An act concerning renewable resources or technologies and renewable energy resources or technologies; amending K.S.A. 66-1,184a and K.S.A. 2006 Supp. 17-4652 and 79-201 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Beamer, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Collyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Donohoe, Hodge, Pottorff, Powers.

The bill passed.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2021** be adopted; and the bill be passed as amended.

Committee report to **HB 2044** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Economic Development and Tourism** recommends **HB 2046** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Elections and Governmental Organization** recommends **HB 2128** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Elections and Governmental Organization** recommends **HB 2080** be amended on page 2, in line 9, by striking "and"; in line 10, by striking all following "(5)", and inserting "any meal the value of which is \$25 or less;

(6) meals provided to the governor's spouse when the presence of the governor's spouse at the event or meeting at which the meal is provided serves a legitimate state purpose or interest; and

(7) meals provided to a person when the person's presence at the event or meeting at which the meal is provided serves a legitimate state purpose or interest and the agency of which such person is an officer or employee authorizes such person's attendance at such event or meeting."; and the bill be passed as amended.

Committee on **Insurance and Financial Institutions** recommends **HB 2109** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Insurance and Financial Institutions** recommends **HB 2110** be amended on page 1, in line 30, after "company" by inserting "or"; and the bill be passed as amended.

Committee on **Veterans, Military and Homeland Security** recommends **HB 2068** be amended on page 2, in line 11, by striking all after "(1)"; by striking all in lines 12 through 14; in line 15, by striking "enforcement officer."; in line 17, by striking "such"; also in line

17, after "training" by inserting "pursuant to K.S.A. 74-5607a, and amendments thereto,"; and the bill be passed as amended.

REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

Request No. 14, by Representative Mast, congratulating Sarah Wendling on receiving a state award for her essay "If I Were a Mayor";

Request No. 15, by Representative Beamer, congratulating F. Waldo McBurney on being named America's oldest worker;

Request No. 16, by Representative Schwartz, congratulating Bernard and Mary Louise Runnebaum on their 65th wedding anniversary and Frank and Martha Nutsch on their 50th wedding anniversary;

Request No. 17, by Representative Carlson, congratulating Lorene Miller on her 100th birthday;

Request No. 18, by Representative Bowers, congratulating Anna Rogers on winning the Kansas Association of Conservation Districts state speech contest;

Request No. 19, by Representative Johnson, congratulating Kelli Rourke on winning the League of Kansas Municipalities north-central region "If I Were a Mayor" contest;

Request No. 20, by Representative Lukert, commending Rob Jackson on attaining the rank of Eagle Scout;

Request No. 21, by Representative Lukert, congratulating Kaleb Koch on being selected to play in the Shrine Bowl football game;

Request No. 22, by Representative Bowers, congratulating Robert and Maudie Smith on their 60th wedding anniversary;

Request No. 23, by Representative Bowers, commending Barbara Shunn on receiving the Leon Gennette Lifetime Achievement Award for community service and Marsha Doyenne on being honored as the 2006 Business Person of the Year;

Request No. 24, by Representative Rhoades, congratulating Alex Young on receiving a national FFA degree;

Request No. 25, by Representative Vickrey, congratulating Bob and Velda Nickell on their 60th wedding anniversary and Vern and Verbal Isenhower on their 78th wedding anniversary;

Request No. 26, by Representative Beamer, congratulating Kyle Sramek on winning the League of Kansas Municipalities south central region "If I Were a Mayor" contest;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Merrick, the committee report was adopted.

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 bills and concurrent resolution were thereupon introduced and read by title:

HB 2246, An act concerning unclaimed property; amending K.S.A. 58-3934, 58-3935 and 58-3954 and repealing the existing sections, by Committee on Appropriations.

HB 2247, An act concerning adult care homes; relating to home plus beds; amending K.S.A. 2006 Supp. 39-923 and repealing the existing section, by Committee on Appropriations.

HB 2248, An act concerning licensure, examination and registration of public accountants; relating to the education requirements for admission to examination; amending K.S.A. 2006 Supp. 1-302a and repealing the existing section, by Committee on Commerce and Labor.

HB 2249, An act concerning real estate brokers and salespersons; relating to the use of contents of real estate sales validation questionnaires; amending K.S.A. 2006 Supp. 79-1437f and repealing the existing section, by Committee on Commerce and Labor.

HB 2250, An act enacting the Kansas vending machine business opportunity act; prohibiting certain acts with respect to sales of certain vending machine business opportunities; providing penalties and remedies for violations, by Committee on Commerce and Labor.

HB 2251, An act concerning licensure and continuing education of certain trades and crafts; amending K.S.A. 2006 Supp. 12-1509, 12-1526 and 12-1542 and repealing the existing sections, by Representative Patton.

HB 2252, An act concerning human cloning; relating to criminal and civil penalties, by Representatives Kinzer, Beamer, Brown, Brunk, Donohoe, Hodge, Huebert, Kelley, Kiegerl, Mast, Masterson and Peck.

HB 2253, An act concerning school districts; creating the special needs scholarship program; relating to administration thereof, by Representatives Kinzer, Brunk, Carlson, Faber, Hodge, Huebert, Kelley, Kiegerl, Mast, Masterson and.

HB 2254, An act concerning human embryos; relating to criminal penalties, by Representatives Kinzer, Beamer, Brown, Brunk, Donohoe, Hodge, Huebert, Kelley, Kiegerl, Mast, Masterson and Peck.

HB 2255, An act concerning human cloning; prohibiting certain expenditures of moneys appropriated from the state treasury by state agencies, by Representatives Kinzer, Beamer, Brunk, Colyer, Hodge, Huebert, Kelley, Kiegerl, Mast, Masterson and Peck.

HB 2256, An act concerning sales taxation; relating to exemptions; First Call for Help, Inc.; amending K.S.A. 2006 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2257, An act concerning certain telephone calls; pertaining to telephone calls for political purposes; amending K.S.A. 50-670 and repealing the existing section, by Representatives Holland, Feuerborn, Lukert, Swenson, Treaster, Trimmer, and Wetta.

HB 2258, An act concerning certain telephone calls; pertaining to automated calls for political purposes; amending K.S.A. 50-670 and repealing the existing section, by Representatives Holland, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Lukert, Ruff, Sawyer and Storm.

HB 2259, An act concerning elections; relating to paper verification of votes cast on electronic voting machines; amending K.S.A. 25-1308 and 25-1310 and repealing the existing sections, by Representatives Holland, Ballard, Crow, Davis, Faust-Goudeau, Feuerborn, Flaharty, Garcia, Hawk, Mah, McKinney, McLachlan, Sawyer, Swenson, Treaster and Trimmer.

HB 2260, An act concerning governmental ethics; prohibiting the use of public funds for lobbying, by Committee on Elections and Governmental Organization.

HB 2261, An act concerning district courts; relating to the chief judge; amending K.S.A. 2006 Supp. 20-329 and repealing the existing section, by Committee on Judiciary.

HB 2262, An act relating to motor carriers; prohibiting requirements of indemnification from motor carriers for certain acts or omissions; exception, by Committee on Judiciary.

HB 2263, An act concerning civil procedure; relating to forfeiture; amending K.S.A. 2006 Supp. 60-4104 and 60-4105 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 60-4104a, by Committee on Judiciary.

HB 2264, An act concerning income taxation; relating to social security benefits; amending K.S.A. 2006 Supp. 79-32,117 and repealing the existing section; also repealing K.S.A. 2006 Supp. 79-32,117l, by Representatives Judy Morrison, Goico, Beamer, Bowers, Brown, Brunk, Burgess, Carlson, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Fund, George, Gordon, Grange, Hayzlett, Hodge, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Myers, Neufeld, O'Neal, Olson, Otto, Owens, Patton, Peck, Pottorff, Powell, Powers, Proehl, Rhoades, Schroeder, Schwartz, Sharp, Siegfried, Spalding, Swanson, Swenson, Tafanelli, Vickrey, Watkins, Whitham, B. Wolf, K. Wolf, Worley and Yoder.

HB 2265, An act concerning occupational therapy; relating to nonmedical services; amending K.S.A. 2006 Supp. 65-5418 and repealing the existing section, by Committee on Health and Human Services.

HOUSE CONCURRENT RESOLUTION No. 5008—

By Representatives Kinzer, Brown, Brunk, Carlson, Donohoe, Grange, Hodge, Huebert, Kelley, Kiegerl, Mast, Masterson, Merrick, Judy Morrison, Peck, Siegfried and Watkins
A PROPOSITION to amend section 5 of article 3 of the constitution of the state of Kansas, relating to the selection of justices of the supreme court.

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 5 of article 3 of the constitution of the state of Kansas is hereby amended to read as follows:

“**§ 5. Selection of justices of the supreme court.** (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open thereon as a result of enlargement of the court, or the retirement or failure of an incumbent to file ~~his~~ *such justice's* declaration of candidacy to ~~succeed himself~~ *be retained in office* as hereinafter required, or failure of a justice to be elected to ~~succeed himself~~ *be retained in office*, shall be filled by appointment by the governor ~~of one of three~~ persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided, *with the consent of the senate, of a person possessing the qualifications of office.*

(b) In event of the failure of the governor to make the appointment within sixty days from the ~~time the names of the nominees are submitted to him~~ *date such vacancy occurred or position became open*, the chief justice of the supreme court, *with the consent of the senate*, shall make the appointment ~~from such nominees~~ *of a person possessing the qualifications of office.*

(c) *No person appointed pursuant to subsection (a) or (b) of this section shall assume the office of justice of the supreme court until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 30 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 30-day time limitation, the president of the senate shall convene the senate for the sole purpose of voting on such appointment and no other action shall be in order during such session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 30 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the 30-day time limitation, the senate shall be deemed to have given consent to such appointment.*

(d) Each justice of the supreme court appointed pursuant to provisions of subsection (a) or (b) of this section *and consented to pursuant to the provisions of subsection (c) of this section* shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of twelve months in office. Not less than sixty days prior to the holding of the general election next preceding the expiration of ~~his~~ *such justice's* term of office, any justice of the supreme court may file in the office of the secretary of state a declaration of candidacy for election to ~~succeed himself~~ *be retained in office*. If a declaration is not so filed, the position held by such justice shall be open from the expiration of ~~his~~

such justice's term of office. If such declaration is filed, ~~his~~ *such justice's* name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

“Shall _____
(Here insert name of justice.)

(Here insert the title of the court.)
be retained in office?”

If a majority of those voting on the question vote against retaining ~~him~~ *such justice* in office, the position or office which ~~he~~ *such justice* holds shall be open upon the expiration of ~~his~~ *such justice's* term of office; otherwise ~~he~~ *such justice* shall, unless removed for cause, remain in office for the regular term of six years from the second Monday in January following such election. At the expiration of each term ~~he~~ *such justice* shall, unless by law ~~he~~ *such justice* is compelled to retire, be eligible for retention in office by election in the manner prescribed in this section.

~~(d) A nonpartisan nominating commission whose duty it shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the “supreme court nominating commission.” Said commission shall be organized as hereinafter provided.~~

~~(e) The supreme court nominating commission shall be composed as follows: One member, who shall be chairman, chosen from among their number by the members of the bar who are residents of and licensed in Kansas, one member from each congressional district chosen from among their number by the resident members of the bar in each such district, and one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district.~~

~~(f) The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.~~

~~(g) No member of the supreme court nominating commission shall, while he is a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of its members.”~~

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

“Explanatory statement. The purpose of this amendment is to do away with the nonpartisan supreme court nominating commission. The governor will appoint a qualified person, or if the governor fails to act, the chief justice of the supreme court would appoint a qualified person, and such person’s appointment would be required to be consented to by the senate. A procedure is established whereby senate consent would occur with 30 days of receiving the appointment. If the senate does not consent by a majority vote, the governor would then select an appointment which would again go to the senate for consent. The same appointment and consent procedure would be followed until a valid appointment is made. If the senate fails to vote on an appointment within 30 days, it will be considered that the senate has consented to the appointment.

“A vote for this proposition would provide a procedure whereby the governor or chief justice would appoint a person to be a supreme court justice and the senate, by majority vote, would consent to the appointment of supreme court justices.

“A vote against this proposition would continue in effect the current provision whereby the supreme court nominating commission nominates three persons for the office of the supreme court and the governor appoints one of such persons.

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 in the year 2008 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.

CHANGE OF REFERENCE

Speaker pro tem Dahl announced the withdrawal of **HB 2170** from Committee on Economic Development and Tourism and referral separately to Committee on Taxation and Committee on Economic Development and Tourism.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Monday, January 29, 2007.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

