

Journal of the House

TWENTY-THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, February 8, 2007, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Dahl in the chair. The roll was called with 122 members present.
Reps. Powers and K. Wolf were excused on verified illness.
Rep. Long was excused on legislative business.
Reps. Hayzlett and Peck were excused on legislative business later in the session.

Prayer by guest chaplain, the Rev. Dennis Dull, Capitol Ministries, and guest of Rep. Neufeld:

For you, O Lord, are good and forgiving, abounding in steadfast love to all who call upon you. (Psalm 86:5)

God of Holiness, you are *good*; you are our navigational North Star for all that is right. Please lead the men and women of this body to keep a steady eye on you for reliable direction.

O Gracious God, you are *forgiving*, providing for us the hope and reality of restoration in a broken and imperfect world. Please forgive our transgressions this day, and grace the men and women of this chamber with a generous and forbearing spirit that they might prosper and lead well in the affairs of our state.

Compassionate Father, you are *abounding in steadfast love*; bestowing an infinite and unbreakable affection *to all who call upon you*. Please move the men and women of this chamber to genuinely pursue you from the heart, and enable them to experience the energizing confidence of your loyal love. And may they emulate that love toward each other, toward the citizens of Kansas whom they serve, and most of all back to you.

I pray this in the name of the one who loves us to the uttermost, even your son the Lord Jesus Christ. Amen.

The Pledge of Allegiance was led by Rep. Horst.

INTRODUCTION OF GUESTS

Rep. Treaster introduced Connor Bridge, Andy Berg, Joey Ralph and Meriah Forbes, from Buhler High School, who won the 4A Debate State Championship for the second year in a row. He also introduced Head Coach Richard Young and Assistant Coach Gary Minor and presented certificates to all.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2477, An act concerning family support; relating to setoff; amending K.S.A. 75-6201 and 75-6204 and K.S.A. 2006 Supp. 23-9,607 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2478. An act concerning the problem gambling grant fund; amending K.S.A. 2006 Supp. 79-4806 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2479. An act concerning electric public utilities; establishing a renewable portfolio standard, by Committee on Energy and Utilities.

HB 2480. An act concerning electric utilities; relating to electricity generated from renewable resources or technologies, by Committee on Energy and Utilities.

HB 2481. An act concerning adoptions; relating to persons authorized to make assessments; amending K.S.A. 2006 Supp. 59-2132 and repealing the existing section, by Committee on Health and Human Services.

HB 2482. An act concerning coroners; relating to the investigations of certain deaths; amending K.S.A. 2006 Supp. 22a-231 and 22a-232 and repealing the existing sections, by Committee on Health and Human Services.

HB 2483. An act concerning physical therapy; amending K.S.A. 2006 Supp. 65-2901 and repealing the existing section, by Committee on Health and Human Services.

HB 2484. An act concerning public utilities; relating to rate-making principles; amending K.S.A. 2006 Supp. 66-1239 and repealing the existing section, by Committee on Energy and Utilities.

HB 2485. An act concerning energy conservation; prescribing design standards for certain buildings; requiring use of certain lighting in traffic signals; amending K.S.A. 2006 Supp. 72-6415b and repealing the existing section, by Committee on Energy and Utilities.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture and Natural Resources: **SB 19; SCR 1604, SCR 1606.**

Appropriations: **HB 2421, HB 2423, HB 2424, HB 2428, HB 2460, HB 2462; SB 109.**

Commerce and Labor: **HB 2438, HB 2445, HB 2456.**

Committee of the Whole: **SB 252.**

Economic Development and Tourism: **HB 2431, HB 2439, HB 2440, HB 2441; SB 153, SB 164.**

Education: **HB 2420, HB 2422, HB 2442, HB 2447, HB 2450, HB 2459; SB 95.**

Elections and Governmental Organization: **HB 2452, HB 2464.**

Energy and Utilities: **HB 2429, HB 2448.**

Federal and State Affairs: **HB 2436, HB 2449, HB 2451, HB 2453, HB 2455, HB 2461; SB 67.**

Government Efficiency and Technology: **HB 2457.**

Health and Human Services: **HB 2444, HB 2454; SB 82, SB 105.**

Insurance and Financial Institutions: **SB 111, SB 112; SCR 1603.**

Judiciary: **HB 2443, HB 2446, HB 2458, HB 2463; SB 51, SB 57, SB 75.**

Taxation: **HB 2430, HB 2432, HB 2433, HB 2434, HB 2435.**

Transportation: **HB 2426; SB 8, SB 108.**

Veterans, Military and Homeland Security: **HB 2425, HB 2427.**

Agriculture and Natural Resources Budget: **HB 2437.**

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills appearing on the calendar as "To Be Referred" were referred to committees as indicated:

Appropriations: **HB 2468, HB 2469, HB 2470.**

Energy and Utilities: **HB 2476.**

Federal and State Affairs: **HB 2471, HB 2475.**

Health and Human Services: **HB 2472.**

Insurance and Financial Institutions: **HB 2474.**

Judiciary: **HB 2465, HB 2473.**

Taxation: **HB 2466, HB 2467.**

REPORT OF SELECT COMMITTEE

Mr. Speaker: Your Select Committee on Contested Election submits the following report on the contest of election for the 16th District seat to the House of Representatives and recommends that the report be adopted. The notice of Contest of Election was filed by John D. Kriegshauser, Contestant. Gene Rardin is the Contestee.

In the original canvass of the results of the election by the Johnson County Board of Canvassers, it was declared that Rardin received 4,132 votes and Kriegshauser received 4,128 votes. Upon request by Kriegshauser for a recount, a Special Election Board was assembled to handle the recount. Several recounts were conducted resulting in margins of four, three and two votes for Rardin. The Johnson County Election Commissioner recommended a three-vote margin be certified. The Board of Canvassers, on November 15 and 16, 2006, conducted a recount and certified the recount results, specifically, that Rardin received 4,131 votes and Kriegshauser received 4,128 votes. Rardin was declared the winner.

Following the timely filing of the Notice of Contest of Election by Kriegshauser, Chief Judge Stephen Tatum of the Johnson County District Court (Division 5) held an evidentiary hearing (Case 06cv09461). Counsel to the parties presented evidence and argument as to five disputed ballots. Counsel also addressed other issues pertinent to the contested election. Chief Judge Tatum rendered a decision on December 23, 2006, recommending a vote count of 4,131 votes to 4,129 votes in favor of Contestee Rardin. The Clerk of the District Court transmitted files and records of proceedings to the Speaker except for one unopened ballot.

Pursuant to K.S.A. 25-1451, the Speaker of the House of Representatives appointed the Select Committee to consider files, records, and evidence transmitted from the court and to hold public hearings on the contested election.

The Select Committee on Contested Election held public meetings on several different occasions. The Committee first established its rules of order and decided on the direction the Committee would proceed. The Committee discussed whether to accept any evidence related to the matters at hand but that had not been considered by the Court, and the Chairman stated the Committee's ability to request such evidence would be reserved. Counsel for the Contestant and Contestee were asked by Committee members to present arguments on the issues. Counsel did so and were asked questions by the Committee.

Following final oral arguments of the counsel for the parties, the Committee reviewed issues regarding the five disputed election ballots as well as other issues before the Committee. The Committee requested the Johnson County Election Office provide one of the disputed ballots, which had not been opened, since the ballot was ordered to be made part of the court file. The request was declined, whereupon the Committee subpoenaed the Election Commissioner to appear and produce the ballot. The Election Commissioner complied and testified regarding that ballot and the county's vote count procedures. The Committee discussed the legality of the five votes, including the one subpoenaed, and made the following recommendations.

Resolution Regarding the Five Ballots in Question***Ballot Cast by Sara Olivares***

Issue: At issue was Ms. Olivares' residential address. During the Court hearing, Ms. Olivares appeared voluntarily and testified that the address provided on her voter registration card is current and has been her address for the last two years. Testimony indicated that address is located inside District 16. The Committee requested and obtained confidential testimony, which had been sealed by the Court, relating to the question of whether the address listed on Ms. Olivares' voter registration application or another address was her true residence at the time of the election.

Court Ruling: The Judge ruled Ms. Olivares' testimony established that the address she provided on her registration is her current address and was her address at the time of the election; hence, her ballot is valid and her vote was properly submitted to the Board and counted.

Committee Recommendation: The Committee determined by unanimous vote that Ms. Olivares' true residence was the one she listed on her voter registration application. Therefore, the Committee recommends unanimously that Ms. Olivares' vote be counted and not deducted from the vote total.

Ballot Cast by Alicia Frieswyk

Issue: Ms. Frieswyk's address also was at issue. While Ms. Frieswyk did not testify at the Court hearing or sign an affidavit, other testimony was received indicating she did not live at the address indicated on her voter registration application.

Court Ruling: The Judge ruled that, while Ms. Frieswyk did not live at the address listed on her voter registration at the time she voted, no evidence was presented to indicate she lived outside the district at election time. The Judge also ruled that it cannot be determined for whom Ms. Frieswyk voted. Thus, Ms. Frieswyk's vote cannot be deducted from the vote total.

Committee Recommendation: The Committee determined by unanimous vote that a question remains as to Ms. Frieswyk's legal residence at the time of the election, but the way she voted is not known. Therefore, the Committee recommends Ms. Frieswyk's vote not be deducted from the vote total.

Ballot Cast by Heather Henderson

Issue: Heather Henderson's voter registration application card indicated her residential address (the Long address) as one that is located in District 16, but she listed her mailing address (the 91st Street address) as one that is outside the district. Additional data obtained by the Committee confirmed that the Long address is located in District 16, but not the 91st Street address. Ms. Henderson signed an affidavit indicating she voted for Rardin. There was conflicting evidence as to which address she was actually living at on election day.

Court Ruling: The Judge ruled there is no clear evidence that Ms. Henderson lived outside District 16 at the time of the election. Thus, the Judge ruled her vote was properly counted.

Committee Recommendation: The Committee recommends, by a vote of five to one, that Ms. Henderson's vote should count and not be deducted from the vote total as there was not clear evidence presented that at the time of the election Ms. Henderson lived outside of the 16th District.

Ballot Cast by Juan Mojica

Issue: The Court received testimony that Juan Mojica did not live in District 16 at election time. Mr. Mojica signed an affidavit as to his address and how he voted. However, Mr. Mojica also testified before the Court, indicating he was a registered Republican and he could remember having voted for Governor Sebelius, Congressman Moore, and Attorney General Morrison, but he could not remember whether he voted for District 16 Representative or how he might have voted. Mr. Mojica's testimony also included a description of the process by which his affidavit was obtained. He testified that he voted at the polling location he chose because it was located between his old address and his current address and close to his house.

Court Ruling: The Judge accepted Mr. Mojica's testimony that it is not clear for whom he voted or if he voted in the District 16 race. The Judge concluded Mr. Mojica's vote could not be determined and the ballot cast by Mr. Mojica should not be removed from the vote total.

Committee Recommendation: The Committee agrees by unanimous vote that Mr. Mojica's ballot was illegally cast, but no clear indication exists as to how Mr. Mojica voted in the District 16 race. Therefore, the Committee recommends by unanimous vote that Mr. Mojica's vote not be deducted from the vote total.

Ballot Cast by Marceline Blickhan

Issue: The Johnson County Election Office neither opened nor counted Marceline Blickhan's ballot, because the office determined the signature on the ballot envelope did not match the voter registration signature on file. Testimony was received indicating Ms. Blickhan's husband and she signed each other's ballot envelopes by mistake, and that Ms. Blickhan signed an affidavit stating she had voted for Kriegshauser.

Court Ruling: The Judge ruled that Ms. Blickhan's vote for Kriegshauser should be counted, based on her signed affidavit, and Kriegshauser's vote total should be increased by one vote. The resulting vote total was 4,131 votes for Rardin and 4,129 for Kriegshauser.

Committee Recommendation: The Committee recommends by unanimous vote that Ms. Blickhan's vote should be counted, but only on the basis of the actual ballot. The Committee notes it requested the Johnson County Election Office provide Ms. Blickhan's ballot, since the ballot was ordered to be part of the court file. The Johnson County Counselor declined to submit the ballot based on the request, whereupon the Committee subpoenaed the Johnson County Election Commissioner to appear and bring Ms. Blickhan's ballot. The Election Commissioner appeared and brought the ballot, which was transferred to the custody of the Committee. The Committee opened the ballot and noted the vote, which was for Kriegshauser. The ballot will remain in the custody of the Legislature and will be preserved for the period specified by K.S.A. 25-2708, and amendments thereto, for preservation of ballots by a county election officer. On expiration of that period the ballot will be destroyed.

Resolution Regarding Adherence to Laws Governing Elections

Issue: K.S.A. 25-2908, subsection (e) requires, in part, that the county election officer present copies of provisional voters' identification and the corresponding provisional ballots to the county board of canvassers. The statute further requires the provisional ballot must be counted if the board of canvassers determines a voter's identification is valid and the provisional ballot was properly cast. The Johnson County Election Commissioner testified at the hearing, and the Chairman of the Board of Canvassers confirmed, that the Johnson County Election Commissioner did not present actual copies of the provisional voters' identification with the ballots in question.

Court Ruling: The Judge found that the portion of the statute in question was not followed strictly. However, the Judge noted, in his review of case law, that the Supreme Court has "... declared 'violations' of the statutes prescribing protocol can be, and seem to be in the present case, unwitting omissions...." and that failure to adhere strictly does not invalidate an election.

Committee Recommendation: The Committee notes the above-cited statutory language was not followed strictly. The Committee further notes that, in his testimony before the Committee, the Johnson County Election Commissioner acknowledged the same. The Election Commissioner admitted the reason was that he was unaware, and had not been made aware prior to the election, of the statutory requirement. Further, he stated he believed other counties followed procedures similar to those of Johnson County and that he could not recall any training he had received, locally or through the Secretary of State's Office, to have addressed this particular issue. The Committee recommends the House Committee on Elections and Governmental Organization review the law to determine whether the requirement should be reinforced or modified and that the Secretary of State's Office be directed to include this procedural safeguard in its training of election offices and workers. In addition, the Johnson County Election Commissioner acknowledged that, although recounts are held in open public meetings, the County Board of Canvassers maintains a policy of not allowing anyone, including counsel for the candidates, to address the Board of Canvassers during a recount. The Committee recommends the House Committee on Elections and Governmental Organization review the law and make recommendations on whether to allow public input and comment regarding procedural concerns during a recount.

Resolution Regarding the Final Vote Count

Issue: At issue is the vote count determined by Johnson County officials prior to the hearing. During the recount process the ballots were recounted several times using different methods, including scanning paper ballots, reviewing the electronic votes, and conducting hand counts. The hand recounts produced a four-vote margin; scanned recounts dropped the margin to three votes by reducing Rardin's vote total by one vote. The Johnson County Election Commissioner halted the recount process and indicated he decided to submit the three-vote margin (Rardin - 4,131 votes; Kriegshauser - 4,128 votes). In his testimony before the Court, the Election Commissioner stated he believed that hand-counting was the most accurate and reliable way to count votes during the recount process.

Court Ruling: The Judge found that the three-vote margin resulting from the recount, which was recommended by the Johnson County Election Commissioner and approved by the county's Election Board, is the official vote count. While noting that an argument could be made for a four-vote margin, the Judge agreed with the Board's certification of the three-vote margin. The Judge further recommended that Ms. Blickhan's vote, as determined by her signed affidavit, should be counted, hence increasing Kriegshauser's vote total to 4,129 votes and decreasing the margin to two votes.

Committee Recommendation: The Committee recommends, by a vote of five to one, that the three-vote margin recommended by the Johnson County Election Commissioner be accepted as a starting point, prior to the counting of Ms. Blickhan's ballot. The Committee agrees a case could be made to accept the higher count for Rardin of 4,132 votes; however, the Committee adopts the reasoning of the Court in accepting the count of 4,131 votes. The Committee further recommends Ms. Blickhan's actual vote for Kriegshauser be counted, thus decreasing the margin to two votes. The Committee therefore recommends Rardin be declared the winner.

Respectfully submitted,

February 8, 2007

Rep. Michael R. O'Neal, Chairperson
Select Committee on Contested Elections

Rep. Tom Sawyer
Rep. Jim Ward
Rep. Michael J. Peterson

Rep. Gary K. Hayzlett
Rep. Jene Vickrey

CONSENT CALENDAR

No objection was made to **HB 2016, HB 2081, HB 2217** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2115, HB 2208, HB 2232, HB 2233** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2220** 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 2220. An act concerning electric utilities; relating to recovery of certain transmission costs; amending K.S.A. 2006 Supp. 66-1237 and repealing the existing section, 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, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, 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, Peterson, Phelps, Pottorff, 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, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Hayzlett, Long, Peck, Powers, K. Wolf.

The bill passed.

HB 2058, An act concerning counties; relating to enforcement of county codes and resolutions; amending K.S.A. 2006 Supp. 19-101d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 98; Nays 22; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Bethell, Bowers, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, King, Kuether, Landwehr, Lane, Loganbill, Lukert, Mah, Masterson, McCray-Miller, McLachlan, McLeland, Menghini, Metsker, Judy Morrison, Moxley, Myers, Neighbor, O'Neal, Owens, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, Worley, Yoder.

Nays: Beamer, Brown, Colyer, Faber, Grant, Hodge, M. Holmes, Huebert, Kelley, Kiegerl, Kinzer, Knox, Light, Mast, McKinney, Merrick, Jim Morrison, Neufeld, Olson, Otto, Powell, Schwartz.

Present but not voting: None.

Absent or not voting: Hayzlett, Long, Peck, Powers, K. Wolf.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I support the number one industry in Kansas Agriculture. **HB 2058** can give a small group of people the ability cause serious problems for farmers and denies them the chance to protect themselves in an election. This was requested by larger counties and now expands state wide. I vote no because it is the correct thing to do for rural people.—
BILL OTTO

HB 2073, An act concerning law libraries; relating to fee increase authority; amending K.S.A. 20-3127 and K.S.A. 2006 Supp. 20-3129 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 98; Nays 22; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Bethell, Bowers, Burroughs, Carlin, Colloton, Colyer, Craft, Crow, Crum, Dahl, Donohoe, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, Kuether, Lane, Light, Loganbill, Lukert, McCray-Miller, McKinney, McLachlan, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, Worley, Yoder.

Nays: Beamer, Brown, Brunk, Burgess, Carlson, Davis, Dillmore, Faber, Hodge, Huebert, Kelley, King, Kinzer, Knox, Landwehr, Mah, Mast, Masterson, McLeland, Patton, Pauls, Treaster.

Present but not voting: None.

Absent or not voting: Hayzlett, Long, Peck, Powers, K. Wolf.

The bill passed, as amended.

HCR 5003, A concurrent resolution adopting joint rules for the Senate and House of Representatives for the 2007-2008 biennium, 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, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood,

George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, 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, Peterson, Phelps, Pottorff, 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, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Hayzlett, Long, Peck, Powers, K. Wolf.

The resolution was adopted, as amended.

HR 6004, A resolution adopting permanent rules of the House of Representatives for the 2007-2008 biennium, was considered on final action.

On roll call, the vote was: Yeas 115; Nays 5; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Lane, Light, Loganbill, 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, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, Worley, Yoder.

Nays: Faber, Gordon, Landwehr, Sloan, Wilk.

Present but not voting: None.

Absent or not voting: Hayzlett, Long, Peck, Powers, K. Wolf.

The resolution was adopted, as amended.

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

COMMITTEE OF THE WHOLE

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

Recommended that **SB 252**; **HB 2193** be passed.

HB 2074, **HB 2087** be passed over and retain a place on the calendar.

Committee report to **HB 2033** be adopted; and the bill be passed as amended.

Committee report to **HB 2127** be adopted; and the bill be passed as amended.

Committee report to **HB 2107** be adopted; and the bill be passed as amended.

INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Merrick pursuant to House Rule 2311, **SB 252** was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 252, An act authorizing the state board of regents to convey certain real estate located in Riley county, Kansas, for and on behalf of Kansas state university and the state of Kansas to the United States government, department of homeland security, 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, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Coyle, Grange, Grant, Hawk, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, 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, Peterson, Phelps, Pottorff, 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, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Hayzlett, Long, Peck, Powers, K. Wolf.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2145** be amended on page 1, following line 39, by inserting the following:

"Sec. 2. K.S.A. 55-426 is hereby amended to read as follows: 55-426. (a) The director of taxation is entitled to demand and receive from the manufacturer, importer, exporter or distributor first selling, offering for sale, using or delivering gasoline or diesel including government sales, the sum of \$.015 per barrel. *For the purposes of this section* €50 gallons is to be considered and counted as a barrel).

(b) *The secretary is hereby authorized and empowered to reduce the fees and charges provided by subsection (a) for any period deemed justified whenever the secretary shall determine that such fees and charges being paid into the state treasury as required by law are yielding more revenue than is required for the purposes to which such fees and charges are devoted by law. In the event that the secretary determines that sufficient revenues are not being produced by such reduced fees and charges, the secretary is hereby authorized and empowered to restore the fees and charges in full or in part to a rate not exceeding that provided in subsection (a) that will in the secretary's judgment produce sufficient revenue for the purposes to which such fees and charges are devoted by law.*."

By renumbering the remaining sections accordingly;

On page 2, in line 29, preceding "83-221" by inserting "55-426,";

In the title, in line 9, by striking "dispensing devices" and inserting "the department of agriculture"; also in line 9, by striking "vehicle tank meters" and inserting "regulatory authority thereof; petroleum products; dispensing devices"; in line 10, preceding "83-221" by inserting "55-426,"; 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 was thereupon introduced and read by title:

HB 2486, An act relating to fire departments; concerning certain powers; amending K.S.A. 31-145 and repealing the existing section, by Committee on Appropriations.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6008—

By Committee on Appropriations

A RESOLUTION urging the United States Senate to fulfill the requests of the 2005 BRAC Commission and the United States Military by restoring federal funds for military construction in the Federal Continuing Resolution to the funding levels agreed upon in the FY 2007 Defense Authorization Bill.

WHEREAS, Kansas communities, state officials and the members of the Kansas Congressional Delegation worked hard and the results of the 2005 Base Realignment and Closure (BRAC) Commission recommendations were the best news for Kansas in years; and

WHEREAS, These recommendations are resulting in significant increases in personnel and the missions assigned to Fort Riley, Fort Leavenworth, Forbes Air Force Base and McConnell Air Force Base in Kansas; and

WHEREAS, The military commands, the troops and their families coming to work on those missions are facing a situation with much of the funding support originally contained in the Federal Continuing Resolution, and many of the key projects in Kansas, now at risk; and

WHEREAS, The Federal Continuing Resolution adopted by the United States' House of Representatives currently provides less than half of the request for the 2005 BRAC Commission and is more than \$3 Billion short of the amount agreed upon in the FY 2007 Defense Authorization Bill; and

WHEREAS, Kansas Governor Kathleen Sebelius' Military Council voted on February 7, 2007, to support efforts to restore vital federal military construction funding for Fort Riley, Fort Leavenworth, Forbes Air Force Base and McConnell Air Force Base at this time when these military posts are getting new missions; and

WHEREAS, Projects that are potentially at risk at Fort Riley include a Combat Aviation Brigade complex, which would provide additional housing for troops, headquarters and operations buildings and facilities, hanger expansion and a crash rescue fire station (\$152 Million); essential Runway Improvements (\$17 Million); Division Headquarters and Sustainment Brigade Headquarters buildings and facilities (\$87 Million); a state-of-the-art Battle Command Training Center (\$27 Million); and a Health and Dental Clinic (\$17.5 Million) and a Child Development Center (\$5.7 Million) to serve the thousands of troops and their families moving to Fort Riley; and

WHEREAS, The project for the Joint Regional Corrections Facility (\$68-\$95 Million) at Fort Leavenworth is also at risk; and

WHEREAS, The House of Representatives of the State of Kansas considers the federal funding requested for Fort Riley, Fort Leavenworth, Forbes Air Force Base and McConnell Air Force Base, based on the recommendations of the 2005 BRAC Commission, to be crucially important to the United States of America, as well as to the State of Kansas: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That the House of Representatives of the Legislature of the State of Kansas strongly urges the United States Senate to fulfill the requests of the 2005 BRAC Commission and the United States Military by restoring federal funds for military construction in the Federal Continuing Resolution to the funding levels agreed upon in the FY 2007 Defense Authorization Bill; and

Be it further resolved: That the Secretary of State is directed to send enrolled copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Kansas Congressional Delegation.

REPORT ON ENROLLED RESOLUTIONS

HR 6007 reported correctly enrolled and properly signed on February 8, 2007.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Friday, February 9, 2007.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

