

# Journal of the House

TWENTY-SIXTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, February 19, 2008, 11:00 a.m.

The House met pursuant to recess with Speaker pro tem Dahl in the chair.  
The roll was called with 122 members present.  
Reps. Flora, Kelley and Trimmer were excused on verified illness.

Prayer by guest chaplain, the Rev. Wade Graber, pastor, First Baptist Church, El Dorado, and guest of Rep. Grange:

Our Lord and God!

Thank you for being here in the room with us. Thank you for being an awesome God who has manifested Yourself to us as Father, Son and Holy Spirit. Praise you for Your Word that reveals You to us as Father, Son and Holy Spirit — the eternally pre-existent One, the Creator, the Sustainer of earthly life, the Determiner of eternal life.

Thank you, not only for the witness of your Creation, and your Word, but also the historically documented testimonies of our governmental leaders of the past. May we gratefully receive the witness of the prophets like the prophecy of Isaiah 9 that declares of Your Son Jesus, “the government will be upon His shoulders. And His name will be called Wonderful, Counselor, Mighty God, Everlasting Father, Prince of Peace. Of the increase of His government and peace there will be no end.”

May we continue the witness of our political forefathers like Madison, Henry, Webster, Jefferson and others who declared we are “to govern ourselves according to the Ten Commandments of God” (James Madison); that “The Religion which has introduced civil liberty, is the religion of Christ and His apostles . . . genuine Christianity, and to this we owe our free constitutions of government” (Noah Webster); “that this great nation was founded, not by religionists, but by Christians; not, on religions, but on the gospel of Jesus Christ” (Patrick Henry).

Our Lord and God, Father, Son and Holy Spirit, bless these present governmental leaders with the grace and guts to be the generation that upholds these true foundations. “Thy Kingdom come, Thy will be done, (in Kansas) as it is in heaven.”

I pray in your name Lord Jesus. Amen.

The Pledge of Allegiance was led by Rep. Rhoades.

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

On December 1, 2007, at the “Top Of the Mountain Bowl,” the Butler Community College Grizzlies, who were ranked #2 nationally, defeated the Snow Utah Badgers who were ranked #1. The game was played on the Badgers home field during a blizzard. The final score was 56-27.

This team has 55 players of which 43 are from Kansas. Many of these young men will continue their collegiate football careers as 13 have signed with Division I schools and the

majority of the others will play at the Division II or NAIA level. Certainly several of these young men will be playing on Sundays in a few years.

The Butler Grizzlies have the distinction of being the most successful and winning football program in the United States since 2000, compiling a record of 85 wins and 10 losses.

Their first National Championship Title came in 1981. In the last 10 years the Grizzlies have played in six National Championship games, winning four. They won back to back titles in 1998 and 1999, won in 2003, and again this past year of 2007.

The team has four academic All-Americans and nine All-Americans. Thirteen players were named to all-conference and all-region honors.

The Assistant Head Coach and Defensive Line Coach is Steve Braet, a veteran of 28 years at Butler. The Head Coach is Troy Morrill. Troy earned All-American honors while playing at Butler during the 1990-1991 seasons. Troy has been coaching at Butler for 13 years and has been Head Coach for the past eight years. Troy was named "2007 NJCAA Coach of the Year," the fourth time he has earned this distinction.

I am joined at the well by Coaches Morrill and Braet. The team is seated in the gallery.

Please join me in a warm welcome to the National Junior College Athletic Association, 2007 Football National Champions, the Butler Community College Grizzlies.

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

The following bills were introduced and read by title:

**HB 2917**, An act concerning cities; relating to annexation of territory; amending K.S.A. 2007 Supp. 12-520 and repealing the existing section, by Committee on Federal and State Affairs.

**HB 2918**, An act concerning taxation; relating to homestead property tax refunds; certain social security payments; amending K.S.A. 2007 Supp. 79-4502 and repealing the existing section, by Committee on Taxation.

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

The following bills were referred to committees as indicated:

Commerce and Labor: **SB 461**.

Education: **SB 420, SB 426**.

Elections and Governmental Organization: **SB 438**.

Judiciary: **SB 448, SB 476, SB 477, SB 479**.

Taxation: **SB 510**.

Transportation: **SB 462, SB 522**.

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

From Robert E. Blecha, Director, Kansas Bureau of Investigation, 2007 Annual Report.

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

#### **MESSAGE FROM THE SENATE**

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2066** and has appointed Senators Emler, Apple and Lee as conferees on the part of the Senate.

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, pursuant to House Rule 2306, **HCR 5028** was withdrawn from the calendar under the heading General Orders, and rereferred to Committee on Agriculture and Natural Resources.

#### **CONSENT CALENDAR**

No objection was made to **HB 2665** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2689** 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 2689**, An act concerning insurance; pertaining to risk-based capital requirements; amending K.S.A. 2007 Supp. 40-2c01 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

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, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, 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, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, 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: Flora, Kelley, Trimmer.

The bill passed.

**H. Sub. for SB 327**, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 65-3008b and 66-104d and K.S.A. 2007 Supp. 65-3005, 65-3008a and 66-1,184 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 77; Nays 45; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colyer, Crum, Dahl, Donohoe, Faber, Feuerborn, Fund, Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Johnson, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McKinney, McLeland, Merrick, Jim Morrison, Judy Morrison, Moxley, Myers, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Powers, Proehl, Rhoades, Roth, Ruff, Schroeder, Schwartz, Shultz, Siegfried, Swanson, Tafanelli, Vickrey, Watkins, Wetta, Whitham, Wilk, Williams, B. Wolf, Yoder.

Nays: Ballard, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Flaharty, Frownfelter, Garcia, Goyle, Hawk, Henderson, Henry, Holland, Huntington, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McLachlan, Menghini, Metsker, Neighbor, Pottorff, Quigley, Rardin, Ruiz, Sawyer, Sloan, Spalding, Storm, Svaty, Swenson, Tietze, Treaster, Ward, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Flora, Kelley, Trimmer.

The substitute bill passed, as amended.

## EXPLANATIONS OF VOTE

MR. SPEAKER: I was raised with democratic values:

To stand up for the working people and not export their jobs to India and China.

To protect the poor and not raise their electric rates so high they cannot pay them.

To care more about the people than care about big gas companies who want to build more gas powered electric plants to back up wind power, that will never do the job.

To stand for the rule of law and not the rule of bureaucrats.

I still have my democratic values so I vote yes on this energy bill, **H. Sub. for SB 327**.—  
BILL OTTO

MR. SPEAKER: As an original author of **HB 2711**, I need to explain my no vote on **H. Sub. for SB 327**.

I represent a district that is interested in renewables, real net metering for wind and solar; the original bill also banned merchant plants and had a carbon tax that made mitigation real.

I am not ready to let Washington decide our energy policy. I am ready to continue this debate.—ANNIE KUETHER

MR. SPEAKER: **H. Sub. for SB 327** will stabilize the regulatory uncertainty currently pervasive in our great state. Regulatory uncertainty has already cost Kansas millions in new development. Producers have chosen to establish their operations in more business friendly climates. Surrounding states understand this vulnerability, and are actively pursuing those currently planning to build and produce in Kansas. The state is now in jeopardy of losing literally *billions* of dollars in future developments unless a reasonable and consistent policy is established. This bill does just that. For this reason, we vote YES on **H. Sub. for SB 327**.—MELVIN NEUFELD, DON SCHROEDER, DON MYERS, GARY HAYZLETT, DICK KELSEY, RICHARD CARLSON, BILL WOLF, MARIO GOICO, STEVEN R. BRUNK, ROCKY FUND, SHARON SCHWARTZ, JOHN C. GRANGE, RAY MERRICK, ELAINE BOWERS, JOHN FABER, JIM MORRISON, ARLEN SIEGFREID

MR. SPEAKER: For the past five years, KDHE has issued 1,883 permits for construction and 919 permits for operation of a variety of facilities that require regulatory oversight. Thirty-eight operating permits and 69 construction permits have been issued *since* the Holcomb denial.

The reality is that the denial of the Holcomb application for a huge new coal project, with significant health and environment impact on Kansas, is the exception, not the rule. Holcomb is the *only* permit denial issued in the last five years by KDHE. The claim of regulatory uncertainty does not ring true.

Mr. Speaker, I vote NO on **H. Sub. for SB 327**.—PAUL DAVIS, HAROLD LANE, CINDY NEIGHBOR

MR. SPEAKER: I have worked diligently with the Kansas Legislature FERC and the SPP to develop our energy resources. I worked very hard to craft a bill that balanced protecting public health and the environment with providing reasonably priced energy and economic opportunities.

In Committee, I created the Kansas Energy Science and Technology Commission to review available medical and scientific data on emissions and examine the technological capability to reduce those emissions cost-effectively. The Commission would provide scientific - not political - recommendations so we can develop a comprehensive long-term energy policy.

With removal of the Kansas Energy Science and Technology Commission from the bill, I vote no on **H. Sub. for SB 327**.—TOM SLOAN

MR. SPEAKER: I vote yes on **H. Sub. for SB 327**. With the rising price of natural gas, it is important to find responsible and cost-effective solutions for future energy requirements. It's imperative the state find a number of sources for its energy needs to protect Kansans from the uncertainty of an increasingly volatile energy market. If the state is forced to rely solely on wind, natural gas, or oil for its energy needs citizens' rates will be unpredictable and substantially higher year after year. I vote yes to protect the citizens of Kansas.—VIRGINIA BEAMER

MR. SPEAKER: While I strongly believe that we need to be better stewards of the environment, I also recognize that in the near term no alternate sources for our increasing requirements for energy exist. Further regulatory consistency in Kansas is critical for the economic development of our state, the arbitrary and capricious decision by the secretary of KDHE, whose own experts disagree with his decision. I vote yes on **H. Sub. for SB 327**.—MIKE KIEGERL

MR. SPEAKER: I wish to cast my vote today in favor of this legislation with an eye to the future of Kansas. I stand committed to businesses throughout our state producing jobs and

opportunity for so many Kansans—and ensure those who see such great potential in Kansas are allowed to thrive free of political maneuvering. Businesses have made it clear that they choose Kansas. In turn, the state must embrace our unique ability to provide businesses with exceptional workers, a friendly business climate, and reasonable regulatory certainty. For these reasons I vote yes on **H. Sub. for SB 327**.—PEGGY MAST

MR. SPEAKER: It is our goal as legislators in the State of Kansas to move towards sound energy policies that pull together our desire for economic growth, inexpensive energy and at the same time, a clean environment and good health for our citizens. Realistically, future energy needs in our state will rely on a stable base of coal, nuclear, and gas. But better control of pollution and emissions must be also be a part of our future portfolio. To advance the development of a comprehensive energy policy, I vote “Aye” on **H. Sub. for SB 327**.—MARC RHOADES

MR. SPEAKER: **H. Sub. for SB 327** represents a step forward to a balanced energy policy with regulatory certainty including all fuel sources. For the first time, net metering for solar will be required in statute. For the first time, a renewable portfolio standard will be required for renewable energy production from wind. The legislation will require energy conservation by state government. The legislation requires “best available control technology” for CO<sub>2</sub> reduction in coal fired power plants. The legislation requires 80% reduction of mercury from new coal fired power plants. The legislation provides tax incentives for energy reduction of rental housing.

I vote yes on **H. Sub. for SB 327**.—CARL DEAN HOLMES, JOE HUMERICKHOUSE.

MR. SPEAKER: **H. Sub. for SB 327** establishes the beginning of an energy policy and represents a compromise between those who want change and those who prefer business as usual. I’m very supportive of moving to a balanced portfolio which includes renewable energy, however; ALL energy produced must continue to be affordable for even the poorest Kansans. In addition, it is of utmost importance that policy in Kansas and the nation drive the rules and regulations of EVERY agency, not the whim of the agency administration. To do otherwise, potentially jeopardizes the welfare and economic well-being of the state. For these reasons, I vote yes on **H. Sub. for SB 327**.—DEENA HORST

MR. SPEAKER: A sound energy policy is paramount to the future health and well being of our state. By providing a mechanism to achieve additional energy from renewable sources, with less carbon emissions, while establishing a stable regulatory climate that encourages further investment in the energy sector this bill is a step in the right direction. Passage of this bill will allow for growth in the western portion of our state which is critical to the viability of Kansas. I vote yes on **H. Sub. for SB 327**.—DAVID CRUM

MR. SPEAKER: Voting in favor of this bill is not easy for me since many of my constituents are opposed to it. Their concerns include environmental issues which are long range and are overshadowed by the short range concerns of the economic viability of small-town, rural Kansas. The Sunflower project represents a revitalization of their economy, energy resource requirements, and sustainability of their communities. If we fail to help preserve the small communities, Johnson County will be called upon to carry more of the financial burden of the infrastructure of the state. This calls for compromise and balance. Therefore I vote yes on **H. Sub. for SB 327**.—THOMAS C. (TIM) OWENS

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Schwartz, the House nonconcurred in Senate amendments to **HB 2578** and asked for a conference.

Speaker pro tem Dahl thereupon appointed Reps. Bethell, Kelsey and Henry as conferees on the part of the House.

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

**COMMITTEE OF THE WHOLE**

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

Recommended that **HB 2659, HB 2708, HB 2748** be passed.

Committee report recommending a substitute bill to **Sub. HB 2545** be adopted; and the substitute bill be passed.

Committee report to **HB 2315** be adopted; and the bill be passed as amended.

Committee report to **HB 2663** be adopted; and the bill be passed as amended.

**REPORTS OF STANDING COMMITTEES**

Committee on **Insurance and Financial Institutions** recommends **HB 2688** be passed.

Committee on **Judiciary** recommends **HB 2642** be amended on page 1, in line 19, by striking all after “(1)”; by striking all in lines 20 and 21; in line 22, by striking all before the period and inserting “Conduct surveys of such persons as the commission determines to be appropriate who have had sufficient experience with a judge or justice to form an opinion about the performance of the judge or justice, such as attorneys, litigants, jurors, witnesses, court staff and others”;

On page 2, in line 1, after the first comma by inserting “the Kansas judicial council,”; in line 2, by striking the comma and inserting “or”; also in line 2, by striking “or agent”; after line 5, by inserting the following:

“(c) Any agent under contract with the commission on judicial performance shall be indemnified and held harmless by the state in any cause of action arising out of such agent’s use of information provided by the state within the scope of their contractual duties. Any such agent shall not be indemnified or held harmless by the state in any cause of action arising out of such agent’s intentional or negligent acts.”;

Also on page 2, in line 14, after “to” by inserting “the names and addresses of appropriate persons named in”; 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 bills were thereupon introduced and read by title:

**HB 2919**, An act relating to citizens’ utility ratepayers board; concerning negotiation for contracts for professional services by a negotiating committee, by Committee on Appropriations.

**HB 2920**, An act relating to healthy marriages and strong families grant program, by Committee on Appropriations.

Speaker pro tem Dahl announced that Rep. Frownfelter will replace Rep. Holland as a member of Committee on Taxation effective for February 20. Rep. Dillmore will serve as Ranking Minority Member.

Rep. Holland will return to the committee on February 21, replacing Rep. Frownfelter.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Wednesday, February 20, 2008.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

