

# Journal of the House

## EIGHTEENTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, February 5, 2009, 11:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 122 members present.  
Rep. Slattery was excused on legislative business.  
Reps. Aurand and Mast were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
The bills are in and the debates begin.  
Each member of this body comes into this room  
with their own ideas, dreams, thoughts and solutions.  
Some here will be the ones to break new ground;  
some will plant the seeds.  
Others will nurture the growth,  
while others will gather the harvest.  
Help each representative find fulfillment in  
his or her role —  
knowing that each part is necessary  
for the completion of the whole.  
In Christ's name I pray, Amen.

The Pledge of Allegiance was led by Rep. McLeland.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2277**, An act concerning public works projects for state agencies; prescribing payment of minimum wages for work thereon and preferences for certain employees to work thereon, by Committee on Appropriations.

**HB 2278**, An act concerning workers compensation; relating to bilateral scheduled injuries; amending K.S.A. 44-510e and repealing the existing section, by Committee on Appropriations.

**HB 2279**, An act concerning workers compensation; relating to benefits; amending K.S.A. 44-510c, 44-510d, 44-510e and 44-510f and K.S.A. 2008 Supp. 44-501 and repealing the existing sections, by Committee on Appropriations.

**HB 2280**, An act concerning school districts; relating to state aid for capital improvements and capital outlay; amending K.S.A. 2008 Supp. 72-8814 and 75-2319 and repealing the existing sections, by Committee on Appropriations.

**HB 2281**, An act concerning employment; relating to misclassification of employees; amending K.S.A. 2008 Supp. 79-3234 and repealing the existing section, by Committee on Federal and State Affairs.

**HB 2282**, An act concerning water districts; relating to lands annexed by cities; amending K.S.A. 12-527 and repealing the existing section, by Committee on Energy and Utilities.

**HB 2283**, An act concerning rural water districts; relating to procedures for release of lands from a district; amending K.S.A. 2008 Supp. 82a-646 and repealing the existing section, by Committee on Energy and Utilities.

**HB 2284**, An act concerning water; relating to rural water districts; concerning transfer of certain property funds and records of such districts; amending K.S.A. 82a-637 and repealing the existing section, by Committee on Energy and Utilities.

**HB 2285**, An act concerning health care; relating to debts owed to the state; state debt setoff program, by Committee on Health and Human Services.

**HB 2286**, An act concerning insurance; pertaining to practices affecting certain individual policies; amending K.S.A. 40-2257 and K.S.A. 2008 Supp. 40-2215 and repealing the existing sections, by Committee on Health and Human Services.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Aging and Long Term Care: **HB 2242**.

Agriculture and Natural Resources: **HB 2241, HB 2254, HB 2272; SB 51**.

Appropriations: **HB 2273**.

Commerce and Labor: **HB 2257, HB 2260; SB 29, SB 77**.

Education: **SB 40, SB 41**.

Elections: **HB 2244, HB 2256; HCR 5010; SB 3, SB 43**.

Energy and Utilities: **HB 2251, HB 2271**.

Financial Institutions: **HB 2245**.

Government Efficiency and Fiscal Oversight: **HB 2249, HB 2265**.

Health and Human Services: **HB 2243, HB 2259, HB 2262, HB 2275**.

Higher Education: **HB 2252**.

Insurance: **HB 2274; SB 50**.

Judiciary: **HB 2246, HB 2250, HB 2263, HB 2264, HB 2266, HB 2268**.

Local Government: **HB 2247, HB 2253; SB 35**.

Taxation: **HB 2248, HB 2261, HB 2269, HB 2270**.

Transportation: **HB 2255, HB 2258; SB 5**.

Veterans, Military and Homeland Security: **HB 2267**.

Education Budget: **SB 11**.

Social Services Budget: **HB 2276**.

#### CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2156** from Committee on Local Government and referral to Committee on Elections.

Also, the withdrawal of **HB 2158** from Committee on Local Government and referral to Committee on Elections.

#### COMMUNICATIONS FROM STATE OFFICERS

From Debra L. Billingsley, Executive Director, Kansas Board of Pharmacy, pursuant to K.S.A. 65-4102(b), report regarding the Kansas Controlled Substance Act.

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

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SCR 1601**.

Speaker O'Neal thereupon appointed Reps. Shultz, Kinzer and Sawyer as conferees on the part of the House.

#### MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Kuether, **HR 6008**, A resolution encouraging participation in the American Heart Association's Go Red for Women campaign, was adopted.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**H. Sub. for Sub. SB 23**, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010 and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-4801 and 82a-953a and repealing the existing sections.”, was considered on final action.

On roll call, the vote was: Yeas 74; Nays 48; Present but not voting: 0; Absent or not voting: 3.

Yeas: Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Colloton, Craft, Crum, DeGraaf, Dillmore, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Light, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O’Brien, O’Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Sloan, Spalding, Swanson, Tafanelli, Watkins, Whitham, B. Wolf, K. Wolf, Worley, Yoder.

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

Present but not voting: None.

Absent or not voting: Aurand, Mast, Slattery.

The substitute bill passed, as amended.

## EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yes on **H. Sub. for Sub. SB 23** because in a time of fiscal crisis we must take action to be responsible with Kansas Taxpayers’ dollars. This bill does everything possible to protect K-12 education dollars for the remainder of the year as well as those who cannot help themselves. Specifically, by supporting the Yoder Amendment, I was able to save USD 385 \$173,209 and USD 259 \$2,053,776. It also requires government to reign in expenses and finish this fiscal year with a constitutional positive ending balance. I vote yes to balance the budget.— AARON JACK

MR. SPEAKER: Budget cuts are certainly not easy, especially when many of our state agencies are already operating with extremely tight budgets. This is perhaps one of the hardest votes I’ve made, but it is necessary to keep our state from going deeper in the red. This bill makes everyone share the pain, and yet puts a lighter burden on K-12 education than the other entities. The only responsible course of action under the current economic situation is to trim from all parts of the state’s budget. I vote yes on **H. Sub. for Sub. SB 23**.—MITCH HOLMES

MR. SPEAKER: I vote NO on **H. Sub. for Sub. SB 23**. The Kansas school finance formula is designed to provide for the actual costs of educating students across our state. The cuts to public education in this bill use that same formula to cut deeper where education costs are highest, in districts with many students who are at risk and with special needs and in districts that are small and rural. I vote NO. — MARTI CROW, SHIRLEY PALMER, BOB GRANT, SYDNEY CARLIN, ANN MAH

MR. SPEAKER: I vote “NO” on **H. Sub. for Sub. SB 23**. Our actions yesterday demonstrated that we do not have K-12 education funding as our number one priority. We put in place a three year solution to our school funding crisis, received approval from the Supreme Court, and now are taking back that third year of the settlement. We have turned our backs on the children and most vulnerable of our state’s population while potentially weakening our public safety. The Governor showed us a road map to recovery, but this plan takes a

sharp detour. I vote "NO."— CINDY NEIGHBOR, MELODY MCCRAY-MILLER, DELIA GARCIA, GERALDINE FLAHERTY, LOUIS E. RUIZ

MR. SPEAKER: I vote yes on **H. Sub. for Sub. SB 23**. This bill attempts to protect for the remainder of the year, K-12 education dollars, as well as our most vulnerable citizens. It also requires all state government to reign in expenses so we can finish this year with a positive ending balance. It seeks to eliminate the use of accounting gimmicks which ignore the real problem Kansas faces. It is very painful to make such cuts but the ending balance helps to ensure that another rescission bill won't be needed for FY 2009 and hopefully will lessen the pain of 2010 cuts.—DEENA HORST

MR. SPEAKER: Kansas is in an extra ordinary difficult situation and as a legislator, we don't have any good options. We can't deal with this budget without dealing with K-12 because it is more than half of the budget. However SB23 hurts small rural schools significantly greater than many of our suburban counterparts. The smaller they are, the harder they are hurt . While cuts are required it is important that we balance the pain fairly. For this reason, I vote no on **H. Sub. for Sub. SB 23**. — SHARON SCHWARTZ

MR. SPEAKER: Kansas, our nation, and our citizens face the greatest financial challenges and problems since the Great Depression. Today we made difficult, but responsible, choices for the people of this great state. We did our best to develop a balanced budget that would support our state's highest priority, our children's education, and to stand up for the most vulnerable Kansans - those who require special services. The choices were incredibly difficult but this is what we must do to get the state back on track now and for the future. I vote yes on **H. Sub. for Sub. SB 23**.—MARVIN KLEEB

MR. SPEAKER: I vote yes on **H. Sub. for Sub. SB 23**. At all times, the Legislature has a responsibility to be wise and prudent with tax dollars, but especially in periods of fiscal crisis. Cuts are never easy, but this bill does protect K-12 education dollars for the remainder other year, as well as those who cannot help themselves. It requires government to reign in spending, finishing this fiscal year with a positive ending balance. Fiscal shortfalls are not pushed to local governments and accounting gimmicks are eliminated. I vote yes on this first step to balance our budget.—KASHA KELLEY

MR. SPEAKER: Today we made tough but responsible choices for the people of this great state. We stood up for the most vulnerable Kansans - from our children's education to those who require special services. We put the people first by reigning in government spending to help balance the state's checkbook. The choices were undoubtedly difficult but this is what we must do to get the state back on track now and for the future. I vote yes on **H. Sub. for Sub. SB 23**.—ANTHONY R. BROWN, PHIL HERMANSON, WILLIE PRESCOTT, BILL WOLF, S. MIKE KIEGERL, STEVE HUEBERT

MR. SPEAKER: I vote yes on **H. Sub. for Sub. SB 23** because in a time of fiscal crisis we must take action to be responsible with Kansas Taxpayers' dollars. This bill does everything possible to protect K-12 education dollars for the remainder of the year as well as those who cannot help themselves. It also requires government to reign in expenses and finish this fiscal year with a positive ending balance. It protects us from pushing the problem to local governments and eliminates accounting gimmicks which ignore the real problem Kansas faces. I vote yes to balance the budget.—BILL OTTO, RICHARD CARLSON, MARC RHOADES, VIRGIL PECK, JR., KAY WOLF, JILL QUIGLEY, MARIO GOICO

MR. SPEAKER: I reluctantly vote yes on **H. Sub. for Sub. SB 23**. Kansas is in an extraordinarily difficult financial situation and it could get worse. Legislators don't have any good options — we only have the best of bad options. We don't want to be in a position where we are putting important programs in pain. However, we can't deal with this budget problem without dealing with K-12 Education because it is more than half of the budget. This bill attempts balances those difficult decisions and eases the pain on social services and public safety.—LEE TAFANELLI

**SCR 1606**, A concurrent resolution regarding the Kansas Legislature's opposition to the relocation of the Guantanamo Bay detainees to Ft. Leavenworth, Kansas or elsewhere within

Kansas and urging the President of the United States and other members of the federal executive branch, to not consider Ft. Leavenworth or elsewhere in Kansas as a potential site for the relocation of the Guantanamo Bay detainees, 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: Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Mast, Slattery.

The resolution was adopted.

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

#### COMMITTEE OF THE WHOLE

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

Recommended that **HCR 5007** be adopted.

#### INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Merrick, pursuant to House Rule 2311, **HCR 5007** was advanced to Final Action on Bills and Concurrent Resolutions.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HCR 5007** A concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Supreme Court, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 4; Present but not voting: 0; Absent or not voting: 3.

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

Nays: A. Brown, Feuerborn, Neufeld, Ward.

Present but not voting: None.

Absent or not voting: Aurand, Mast, Slattery.

The resolution was adopted.

**REPORT OF STANDING COMMITTEE**

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

**Request No. 16**, by Representative Meier, commending Nathan L. Salvatorelli for achieving the rank of Eagle Scout;

**Request No. 17**, by Representative Meier, honoring the First Presbyterian Church for their 100th Anniversary Building Rededication 1909-2009;

**Request No. 18**, by Representative Burroughs, congratulating Frank and Delores Lustig of Frank's Used Cars on their 50th Anniversary of their Business;

**Request No. 19**, by Representative Burroughs, congratulating Carol Levers recognizing her as a recipient of the 2008 Carnegie Corporation of New York/New York Times "I Love My Librarian Award";

**Request No. 20**, by Representative Carlson, congratulating Lynn Boerner for being recognized by Emporia State University as the recipient of the 2008 Master Teacher Award;

**Request No. 21**, by Representative Kinzer, commending Tempe Hardy, Mitso Sato, Todd Bray and John and Anna Tarr, for participation in the "Holiday Moms Makeover";

**Request No. 22**, by Representative Kinzer, commending Lenning Gomez of Sweet Tomatoes Restaurant for donation of time and food to the "Holiday Moms Makeover";

**Request No. 23**, by Representative Tietze, congratulating the Hayden High School Varsity Girls' Golf Team on their 2008 winning season and individual accomplishments;

**Request No. 24**, by Representative Spalding, congratulating Mitchell Glessner on achieving the rank of Eagle Scout;

**Request No. 25**, by Representative Moxley, congratulating Frank and Janis Holm on their 50th wedding anniversary on February 8, 2009;

**Request No. 26**, by Representative Kiegerl, honoring Dr. Suzanne Blair on receiving the American Star Teaching Award;

**Request No. 27**, by Representative Kiegerl, congratulating Aubrey Baker and Katie Weil on receiving the 2008 Department of Education Horizon Award;

**Request No. 28**, by Representative Kiegerl, congratulating Teren Brungardt on achieving the Eagle Scout Award;

**Request No. 29**, by Representative Jack, honoring Tracy Ann Coffey in recognition of her life and the gift of joy she gives to everyone she meets;

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 2287**, An act pertaining to health reimbursement arrangements, by Committee on Health and Human Services.

**HB 2288**, An act enacting the healthcare price transparency act, by Committee on Health and Human Services.

**HB 2289**, An act concerning health insurance; concerning mandate lite health benefit plans and specially designed policies, by Committee on Health and Human Services.

**HB 2290**, An act concerning small employer health insurance plans; amending K.S.A. 40-2209f and 40-2209h and K.S.A. 2008 Supp. 40-2242 and 40-2246 and repealing the existing sections, by Committee on Health and Human Services.

**HB 2291**, An act enacting the health care price transparency act; prescribing disclosure and availability of prices charged by certain health care providers and reimbursed by health insurance carriers for health or medical care services, by Committee on Taxation.

**HB 2292**, An act concerning consumer credit; relating to security freeze on consumer reports; amending K.S.A. 2008 Supp. 50-723 and repealing the existing section, by Committee on Judiciary.

**HB 2293**, An act concerning offender registration; relating to broadcast of offender information; amending K.S.A. 22-4909 and repealing the existing section, by Committee on Judiciary.

**HB 2294**, An act concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and 44-1211 and repealing the existing sections, by Committee on Appropriations.

**HB 2295**, An act concerning milk and dairy products; relating to labels for such products, by Committee on Taxation.

**HB 2296**, An act concerning wildlife and parks; relating to fees charged by the secretary of wildlife and parks and disposition thereof; concerning the state water plan fund, by Committee on Taxation.

**HB 2297**, An act concerning geriatric medicine; relating to approved postgraduate residency training program for the university of Kansas school of medicine and the doctor of osteopathy medical student loan programs; amending K.S.A. 2008 Supp. 74-3266 and 76-381 and repealing the existing sections, by Committee on Aging and Long Term Care.

**HB 2298**, An act concerning educational requirements for licensure as a health care provider, by Committee on Higher Education.

**HB 2299**, An act concerning sales taxation; relating to exemptions; goodwill industries; amending K.S.A. 2008 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

**HB 2300**, An act concerning sales taxation; relating to exemptions; resource conservation and development councils; amending K.S.A. 2008 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

**HB 2301**, An act concerning public safety; relating to elevators, escalators, platform lifts, stairway chairlifts, dumbwaiters, moving walks, automated people movers and other conveyances, by Committee on Commerce and Labor.

HOUSE CONCURRENT RESOLUTION No. 5011—

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the definition of public utility.

*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, 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, 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 use ... 25%
- (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 assessed ..... 33%
- (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 classified .. 30%

(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.

(c) For purposes of this section, the term "public utility" shall include every person or entity, regardless of residence or domicile or jurisdiction of the state corporation commission or other regulatory body, that owns, controls or holds for resale natural gas that is stored or delivered for storage in an underground formation in this state. The legislature shall have the authority from time to time to redefine the term "public utility" for purposes of subclassification and taxation under this article."

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 define public utility for property tax purposes to include a person or entity regardless of where the taxpayer resides or is domiciled or jurisdiction of the state corporation commis-



sion to include any such person or entity who owns, controls or holds natural gas for resale which is stored or delivered for storage underground, and allow the legislature to redefine such term.

“A vote for this amendment would subject a person or entity who owns, controls or holds natural gas for resale which is stored or delivered for storage underground to property taxation as a public utility regardless of where the taxpayer resides or domiciles or jurisdiction of the state corporation commission.

“A vote against this amendment would make no changes in current law providing a property tax exemption for such person or entity.”

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 2010 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.

On motion of Rep. Merrick, the House recessed until 3:00 p.m.

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#### AFTERNOON SESSION

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

#### MESSAGE FROM THE SENATE

The Senate nonconcur in House amendments to **H. Sub. for Sub. SB 23**, requests a conference and has appointed Senators Emler, Vratil and Kelly as conferees on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for Sub. SB 23**.

Speaker O'Neal thereupon appointed Reps. Yoder, Watkins and Feuerborn as conferees on the part of the House.

On motion of Rep. Merrick, the House adjourned pro forma until 10:00 a.m., Friday, February 6, 2009.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

