

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, May 2, 2003—9:30 a.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Again I stand as Chaplain
Before the Kansas Senate;
And once more I pray a prayer
Which lasts about a minute.

But yesterday was different,
After I'd prayed once more,
I joined about a hundred people
On the second floor.

And all around our country
In 50,000 places
Many more Americans, Lord,
Were seeking Your good graces.

If a hundred is the average
(And I think that there were more)
Some five million people
Were knocking on Your door.

With five million praying
All at the same time,
I cannot visualize
What was on Your mind.

But I can't help but think
That You'll honor all of those
Who were praying for our country
And what the future may disclose.

Perhaps we even might restore
The dream our Founders dreamed:
Of a land where righteousness
Begins to reign supreme!

I submit this thought in the Name of Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **SB 285**.

MESSAGE FROM THE HOUSE

Announcing the House nonconcurs in Senate amendments to **Senate Substitute for HB 2399**, requests a conference and has appointed Representatives Neufeld, Shultz and Nichols as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **S Sub for HB 2399**.

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1860—

A RESOLUTION congratulating and commending Diane Miles.

WHEREAS, Diane Miles, the Principal of Seltzer Elementary School in Wichita, is congratulated and commended for her devotion to her students, school and community; and

WHEREAS, Diane Miles has been the Principal at Seltzer Elementary School for seven years with unwavering devotion to her students and school, teaching respect and compassion for the less fortunate; and

WHEREAS, She oversaw and witnessed the planning and construction of the new Seltzer Elementary Site and hosted the opening dedication in the fall of 2000; and

WHEREAS, Diane Miles previously taught at Gardiner and L'Ouverture Elementary Schools, served as the Assistant Principal at Colvin Elementary School and as an administrative intern to the superintendent of schools. She has been the Secretary and President of the Wichita Alliance of Black School Educators, President of the Wichita Association of Elementary School Principals and on the district's textbook adoption committee; and

WHEREAS, As a member of the Calvary Baptist Church, Diane Miles has served as a Sunday School teacher, Vacation Bible School teacher, supervisor of Young Matrons, member of the Usher Board, Scholarship Committee member and active member of the Unit Choir: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Diane Miles for her devotion to her profession and community and for the example she provides for those around her; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution, one for Diane Miles and one for Seltzer Elementary School, both addressed to Mrs. Diane Miles, Principal, Seltzer Elementary School, 11660 E. Lincoln, Wichita, KS 67207.

On emergency motion of Senator Wagle **SR 1860** was adopted unanimously.

Senators Gooch and Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1861—

A RESOLUTION congratulating and commending the Wichita State University Men's Bowling Team for winning the 2003 Intercollegiate Bowling National Championship.

WHEREAS, The Wichita State University (WSU) Men's Bowling Team won the 2003 Intercollegiate National Championship in Tulsa, Oklahoma, on April 23-26, 2003; and

WHEREAS, WSU beat defending champion Western Illinois 4 games to 3 in a best of 7 series after being down 3 games to 1 and beat California State University-Fullerton 4.5 games to 3.5 in a tie breaking 8th game and had to beat California State University-Fullerton again 4 games to 2 to advance out of the contender's bracket and defeated Morehead State University 2 games to 1 to win the National Championship; and

WHEREAS, The WSU Men's team has won seven Intercollegiate Bowling National Championships in 1980, 1987, 1993, 1994, 1995, 1998 and 2003; and

WHEREAS, Coach Gordon Vadakin has coached the team since 1978, leading them to the Intercollegiate Bowling National Championship Tournament 23 times and has coached the team to seven national titles; and

WHEREAS, WSU junior Sean Rash was named to the All-Tournament team: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Wichita State University Men's Bowling Team for winning the 2003 Intercollegiate Bowling National Championship Tournament; and

Be it further resolved: That the Secretary of the Senate be directed to send enrolled copies of this resolution to Head Coach Gordon Vadakin, Assistant Head Coach Mark Lewis, Assistant Men's Coach Lonnie Waliczek and team members Nathan Bohr, Mark Buffa, A.J. DeMond, Chris Greene, Scott How, Tony Johnson, Joe Keltner, Aaron Koch, Sean Rash, Kevin Tabron, Russ Wilson and Derrick Woods, all in care of Wichita State University, 1845 N. Fairmont, Wichita, Kansas 67260-0056.

On emergency motion of Senator Gooch **SR 1861** was adopted unanimously.

Senators Gooch and Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1862—

A RESOLUTION congratulating and commending the Wichita State University Women's Bowling Team for placing third in the 2003 Intercollegiate Bowling National Championship.

WHEREAS, The Wichita State University (WSU) Women's Bowling Team took third place in the 2003 Intercollegiate Bowling National Championship in Tulsa, Oklahoma, on April 23-26, 2003; and

WHEREAS, The WSU Women's Bowling Team has won a total of six national titles, in 1975, 1977, 1978, 1986, 1990 and 1994; and

WHEREAS, The WSU Coach Gordon Vadakin has coached the team since 1978, leading them to the National Collegiate Bowling Championship 24 times and has coached the team to four national titles; and

WHEREAS, WSU senior Kristal Scott was named to the All-Tournament team; and

WHEREAS, Since 1982, the WSU Women's Bowling Team has finished no lower than eighth in the nation: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Wichita State University Women's Bowling Team for placing third in the 2003 Intercollegiate Bowling National Championship; and

Be it further resolved: That the Secretary of the Senate be directed to send enrolled copies of this resolution to Head Coach Gordon Vadakin, Assistant Head Coach Mark Lewis and team members Tish Carpenter, Mandy Etem, Anita Manns, Ruth Papa, Olivia Sandham, Kristal Scott, Shannon Sellens, Leslie Shelton, Maggie Smith, Cathy Westberg, and Samantha Wong, all in care of Wichita State University, 1845 N. Fairmont, Wichita, Kansas 67260-0056.

On emergency motion of Senator Gooch **SR 1862** was adopted unanimously.

Senator Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1863—

A RESOLUTION congratulating and commending Christopher Lynn Davenport upon becoming an Eagle Scout.

WHEREAS, Christopher Lynn Davenport, age 18, will be honored as an Eagle Scout at an Eagle Court of Honor to be held at the Topeka Bible Church in Topeka, Kansas, on June 1, 2003. This honor caps a long record in scouting which began at the age of 7 and included earning the Arrow of Light, the highest award in Cub Scouting, and being selected as a member of the Order of the Arrow in Boy Scouts. Christopher has been home schooled since first grade and resides at 135 W. David Street in Carbondale, Kansas, with his parents, Gary and Susan, and brothers and sister, William, Jonathan, Joshua, Carrie and Andrew; and

WHEREAS, As part of the work involved in earning his Eagle Scout badge, Christopher organized a group of scouts and adults to construct a 24 foot bridge over a creek bed followed by a half-mile nature trail through woods and meadow at Camp Tucker in Osage County near Carbondale, Kansas; and

WHEREAS, Christopher participated in activities at Cornerstone Family School and has been a letterman in basketball and soccer, receiving recognition as the Metro Christian Athletic Association Most Valuable Player in Basketball for the 2002-2003 season and All League and Christian Character honors in both sports; and

WHEREAS, Christopher has been an active member of his church and youth group and participated in a summer mission trip to Mexico where the group helped with the construction of a church; and

WHEREAS, This body acknowledges the hard work and dedication it has taken for Christopher to become an Eagle Scout and congratulates him on his athletic endeavors at Cornerstone Family School: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Christopher Lynn Davenport upon achieving the rank of Eagle Scout, his achievements as a young man of integrity, and wish him great success as he goes beyond scouting and high school to pursue a career in the United States Marines; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Christopher Lynn Davenport, and one to his parents, Mr. and Mrs. Gary Davenport, both addressed to 135 W. David Street, Carbondale, Kansas 66414.

On emergency motion of Senator Hensley **SR 1863** was adopted unanimously.

Senator Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1864—

A RESOLUTION congratulating and commending Ryan Russell Pitman Ozias upon becoming an Eagle Scout.

WHEREAS, Ryan Russell Pitman Ozias, age 18, will be honored as an Eagle Scout at an Eagle Scout Court of Honor to be held at the Topeka Bible Church in Topeka, Kansas, on June 1, 2003. This honor caps a long record in scouting which began at the age of 6. Ryan attends Shawnee Heights High School and resides at 3830 SE 31st Street in Topeka, Kansas, with his parents, Roger and Martha Ozias, and sister, Stacey; and

WHEREAS, During the summer of 1998 his scout troop took a trip to Shiloh, Tennessee, and to the famous Civil War battleground where General Grant led the Union troops to a major victory. The scout troop had the opportunity to hike the trails that the armies took on their way to the battleground. They hiked about 88 miles in the six days they were there. They also were able to see famous landmarks along the trails they hiked; and

WHEREAS, As part of the work involved in earning his Eagle Scout badge Ryan organized a group of scouts and adults to construct a bed of 204 white tulips in the shape of a cross on the front lawn of Highland Heights Christian Church, Tecumseh, Kansas; and

WHEREAS, Ryan has been on the Honor Roll at his high school, and has been a member of the high school marching band, jazz band, choir, choraliars, cross country team and fellowship of Christian athletes; and

WHEREAS, Ryan has been an active member of his church and youth group, and has been active in youth leadership, praise orchestra, and vocal music, having written a song that was published on a CD by the Focus on the Family Ministry, as well as manning the slides, lights and sound systems for the services, and serving on the church housekeeping staff; and

WHEREAS, This body acknowledges the hard work and dedication it has taken for Ryan to become an Eagle Scout and congratulates him upon his academic performance at Shawnee Heights High School: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Ryan Russell Pitman Ozias upon attaining the rank of Eagle Scout, his academic work and achievements as a young man of integrity, and wish him great success as he goes beyond scouting and high school to pursue a career in youth ministry; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Ryan Russell Pitman Ozias, and one to his parents, Mr. and Mrs. Roger Ozias, both addressed to 3830 SE 31st Street, Topeka, KS 66605.

On emergency motion of Senator Hensley **SR 1864** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

State Bank Commissioner: K.S.A. 2002 Supp. 75-1304

Clarence W. Norris, serves at the pleasure of the Governor

Committee on **Utilities** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

State Corporation Commission: K.S.A. 74-601

Robert E. Krehbiel, term expires March 15, 2007

On motion of Senator Oleen, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Kerr in the chair.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2053, HB 2471**.

Also, passage of **SB 195, SB 239**.

Passage of **SB 263**, as amended by House Substitute for **SB 263; SB 268**, as amended by House Substitute for **SB 268**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2053, HB 2471 were thereupon introduced and read by title.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

Secretary of Department of Agriculture:

Adrian J. Polansky, serves at the pleasure of the Governor.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

Kansas Development Finance Authority:

Brett A. Reber, term expires January 15, 2007.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

Kansas Development Finance Authority:

Daniel L. Watkins, term expires January 15, 2005.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Board of Indigents' Defense Services Board:

Denise E. Tomasic, term expires January 15, 2006.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

State Gaming Agency, Executive Director:

John E. McElroy III, serves at the pleasure of the Governor.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Oleen, Downey, Emler, Harrington and Taddiken introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1865—

A RESOLUTION congratulating and commending the Kansas State University womens' basketball team and Coach Deb Patterson for their tremendously successful and record-breaking season.

WHEREAS, The Kansas State University womens' basketball team broke the school record for most wins in a season (29), broke the school mark for most conference wins in a season (14) and ended its most successful season in school history being ranked No. 8 in the Associated Press poll; and

WHEREAS, The Wildcats winning percentage (87.8) was the highest in school history; and the team finished the regular season by winning 9 of 10 Big 12 games—its best since joining the league; and

WHEREAS, The Wildcats drew 175,053 fans over 20 home games, good for sixth among NCAA Division I womens' basketball teams. Such beloved and enthusiastic fan support inspired the Wildcats to reach the 20-win plateau for the 16th time in school history and the 25-win mark for the eighth time; and

WHEREAS, Top individual honors were awarded to Nicole Ohlde, who was named an All-American by the Associated Press, Kodak and the U.S. Basketball Writers Association. In addition, Nicole was named the Big 12 Player of the Year. Kendra Wecker was named a third team Associated Press All-American; and

WHEREAS, The individual successes of Ohlde and Wecker could not have been possible without contributions from their talented teammates, which include: Chelsea Domenico, Amy Dutmer, Laurie Koehn, Brie Madden, Megan Mahoney, Jessica McFarland, and Kimmerly Newsom; and

WHEREAS, This year's team was led by Head Coach Deb Patterson, Associate Head Coach Kamie Ethridge and Assistant Coaches, Kristen Becker and Sue Serafini; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school's administrators, faculty and students: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Kansas State University womens' basketball team and Coach Patterson be congratulated and commended for completing the most successful and exciting season in Kansas State University's womens' basketball history; and

Be it further resolved: That the Secretary of the Senate be directed to send 16 enrolled copies of this resolution to Dr. Jon Wefald, President, Kansas State University, Anderson Hall, Manhattan, KS. 66506.

On emergency motion of Senator Oleen **SR 1865** was adopted unanimously.

Members of the K-State women's basketball team, along with Coach Deb Patterson, Associate Head Coach Kamie Ethridge and Assistant Coaches, Kristen Becker and Sue Serafini, were guests of the Senate, and were commended on their record-breaking season.

Senators Haley, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1866—

By Senators Haley, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle

A RESOLUTION congratulating and commending George Haley.

WHEREAS, George Williford Boyce Haley, a former resident of Kansas City and former Kansas State Senator, currently a resident of Silver Spring, Maryland, (a suburb of Washington, the District of Columbia) is to receive an honorary degree on May 10 from the University of Arkansas; and

WHEREAS, George Haley was born in 1925 in Henning, Tennessee; the second of three sons born to Simon and Bertha Haley; and

WHEREAS, After serving in the United States Army Air Corps during World War II, George Haley obtained an undergraduate degree from Morehouse College in 1949 and a law degree from the University of Arkansas in 1952. A requirement at the law school at that time segregated black students and white students, with a partition in the same classroom, from the professor—an experience later recorded by his brother, Alex Haley, in a magazine article captioned "The Man Who Wouldn't Quit"; and

WHEREAS, George Haley served as Assistant City Attorney for the City of Kansas City, as a principal in a private law firm, and in the Kansas Senate from 1965 through 1968. He shares the distinction of being the first African American elected to the Kansas Senate. While in the Senate, he served as Chair of the Committee on Public Utilities; Vice-Chair of the Committee on Public Welfare and as a member of the Committees on: Banks and Banking; Federal and State Affairs; Industrial Development and Aeronautics; Judiciary; and Municipalities. He also was a primary candidate for the U.S. Congress (Kansas) in 1966; and a primary candidate for the U.S. Senate (Maryland) in 1986; and

WHEREAS, George Haley subsequently served with distinction in the federal government under five separate presidents. This service included positions as: Chief Council for the Urban Mass Transportation Administration; as Deputy Director of the United States Information Agency; as member and Chair of the United States Postal Rate Commission; and in diplomatic positions, as a member of the United Nations Education and Scientific Cultural Organization and as the United States Ambassador to the Gambia in West Africa; and

WHEREAS, George Haley is married to Doris (Moxley) Haley. They are the parents of David Haley, who is also an attorney and currently a Kansas state senator; a daughter, Anne Haley Brown, who is also an attorney and currently an Assistant City Attorney for the City of Los Angeles, and they proudly boast of their seven grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Ambassador Haley (retired) upon his splendid career of public service and upon being honored by his alma mater, the University of Arkansas; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the Honorable and Mrs. George W. B. Haley; Senator David Haley; Anne Haley Brown and to Dr. John A. White, Chancellor, University of Arkansas, 425 Administration Building, Fayetteville, AK 72701.

On emergency motion of Senator Oleen **SR 1866** was adopted unanimously.

EXPLANATION OF VOTE

MR. PRESIDENT: I am honored and humbled to join our 40 member Senate in *unanimously* sponsoring and passing, on a voice vote, Senate Resolution No. 1866. George W. Haley, a former Kansas Senator and my father, continues to hold tremendous respect for this institution; the Kansas Legislature. His latest award, an honorary degree due to be presented May 10, 2003, is an extension of a lifetime of academic excellence followed by stellar public service; which began as an elected Senator and continued by his appointment by U.S. Presidents . . . of both parties.

He is proud of this institution and I, for one, share his pride and together with each member of the chamber and the Wyandotte Co. (Kansas City, KS) community send it reciprocally (added with my *personal* gratitude and profound love) back to *my* father; mentor and friend; George W. Haley—DAVID HALEY

Senator Lyon introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1867—

By Senator Lyon

A RESOLUTION congratulating and commending Scott Slava.

WHEREAS, Scott Slava of Winchester and the Superintendent of Schools for Jefferson County North USD 339 has been named as the 2003 Kansas Superintendent of the Year. A finalist for the title two years ago, he represented Kansas at the national convention of the sponsoring American Association of School Administrators in New Orleans on February 20 to 23; and

WHEREAS, Mr. Slava has been the superintendent for USD 339 since 1997. He was the elementary/middle school principal for USD 339 from 1992 to 1997. Earlier he held teaching positions at Haven, Erie, Ulysses, White City and Junction City; and

WHEREAS, Mr. Slava is a native of the greater Pittsburgh area of Pennsylvania, was graduated from Steel Valley Senior High School in 1974 and from Slippery Rock University

in 1978. He holds a master's degree from Kansas State University and is a candidate for a doctor of education degree from Kansas State University; and

WHEREAS, Mr. Slava's approach to learning is planning that which is to be taught, that which is learned and that which is to be tested to determine whether learning has taken place. His district's reading assessment was in the bottom 1/3 of the state in 1998 and was in the top 1% in 2002; district high school mathematic scores are in the top 10% of all Kansas students; and

WHEREAS, Scott Slava lives in Winchester with his wife Janine, stepson Jordan and son Griffin and believes in being a part of community affairs: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Scott Slava upon being named the 2003 Kansas Superintendent of the Year; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Mr. Scott Slava, Superintendent, Jefferson County North USD 339, 310 5th Street, Winchester, KS 66097.

On emergency motion of Senator Lyon **SR 1867** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **SB 285** be amended on page 1, in line 38, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 3, in line 15, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 4, in line 21, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 8, in line 5, preceding "project" by inserting "redevelopment"; in line 8, by striking "as of June 30, 1999"; by striking all in lines 29 through 34; in line 35, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 10, in line 34, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 41, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 14, in line 13, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 42, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 15, in line 9, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 19, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 29, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 16, in line 32, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 38, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 18, in line 1, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 20, in line 13, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 30, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 21, in line 3, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 22, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 25, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 22, in line 21, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 34, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 23, in line 9, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 39, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 24, in line 16, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 25, in line 27, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 26, in line 4, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 31, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 29, in line 22, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 30, in line 14, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 31, in line 15, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 32, in line 21, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 38, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 33, in line 34, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 34, in line 32, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 35, in line 9, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 34, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 43, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 98, in line 2, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 101, in line 7, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 34, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 102, in line 6, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 103, in line 21, preceding "K.S.A." by inserting "On and after July 1, 2003,"; in line 36, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 105, in line 2, preceding "Section" by inserting "On and after July 1, 2003,"; in line 31, preceding "Section" by inserting "On and after July 1, 2003,"; following line 39, by inserting:

"Sec. 103. (a) On or before June 30, 2003, the department of commerce and housing is hereby authorized and directed to adopt temporary rules and regulations setting forth an objective scoring matrix for the purpose of awarding housing tax credits.

(b) Notwithstanding the provisions of executive reorganization order no. 30, the department of commerce is authorized and directed to adopt in fiscal year 2004 permanent rules and regulations setting forth an objective scoring matrix for the purpose of awarding housing tax credits. Thereafter the Kansas development finance authority is authorized to amend or supplement any such rules and regulations.";

By renumbering sections accordingly;

Also on page 105, in line 40, preceding "K.S.A." by inserting "On and after July 1, 2003,";

On page 106, in line 21, by striking "statute book" and inserting "Kansas register";

In the title, on page 1, in line 11, by striking "2002" and inserting "2003"; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 281 reported correctly engrossed May 2, 2003.

REPORT ON ENROLLED BILLS

SR 1855, SR 1856, SR 1857, SR 1858, SR 1859 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 2, 2003.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 284**; **HB 2423**.

COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole, for the consideration of bills on the calendar under the heading of General Orders with Senator Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted:

Recommended **SB 284** be passed.

HB 2423 be amended by motion of Senator Barnett on page 3, after line 38, by inserting the following:

"Sec. 3. (a) As used in sections 3 through 8, and amendments thereto:

(1) "Department" means the department of health and environment.

(2) "Freestanding birthing center" means any facility which is not licensed by the state and in which child birth deliveries routinely occur.

(3) "Hospital" means a hospital classified under K.S.A. 65-425, and amendments thereto, as a general hospital.

(4) "Local health department" means any county, city-county or multi-county health department created under the laws of this state.

(5) "Physician" means a person licensed to practice medicine and surgery.

(6) "Secretary" means the secretary of health and environment.

(b) The secretary of health and environment shall establish and, if funds for this purpose are available, implement a statewide or pilot birth defects information system for the collection of information concerning congenital anomalies, stillbirths and abnormal conditions of newborns.

(c) If the system is implemented under subsection (b) of this section, all of the following apply:

(1) The secretary may require each physician, hospital and freestanding birthing center to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition. The secretary shall not require a hospital, freestanding birthing center or physician to report to the system any information that is reported to the secretary or department of health and environment under another provision of law.

(2) On request, each physician, hospital and freestanding birthing center shall give the secretary or authorized employees of the department of health and environment access to the medical records of any patient described in subsection (c)(1) of this section. The department shall pay the costs of copying any medical records pursuant to this act.

(3) The secretary may review vital statistics records and shall consider expanding the list of congenital anomalies and abnormal conditions of newborns reported on birth certificates.

(d) A physician, hospital or freestanding birthing center that provides information to the system under subsection (c) shall not be subject to criminal or civil liability for providing the information.

Sec. 4. The birth defects information system may be used for all of the following purposes:

(1) To identify and describe congenital anomalies, stillbirths and abnormal conditions of newborns;

(2) to detect trends and epidemics in congenital anomalies, stillbirths and abnormal conditions of newborns;

(3) to quantify morbidity and mortality of congenital anomalies and abnormal conditions of newborns;

(4) to stimulate epidemiological research regarding congenital anomalies, stillbirths and abnormal conditions of newborns;

(5) to identify risk factors for congenital anomalies, stillbirths and abnormal conditions of newborns;

(6) to facilitate intervention in and prevention of congenital anomalies, stillbirths and abnormal conditions of newborns;

(7) to facilitate access to treatment for congenital anomalies and abnormal conditions of newborns;

(8) to inform and educate the public about congenital anomalies, stillbirths and abnormal conditions of newborns.

Sec. 5. (a) Except as provided in this section, records received and information assembled by the birth defects information system pursuant to section 3, and amendments thereto, are confidential medical records.

(b) The secretary may use information assembled by the system to notify parents, guardians and custodians of children with congenital anomalies or abnormal conditions of medical care and other services available for the child and family.

(c) The secretary may disclose information assembled by the system in summary, statistical or other form that does not identify particular individuals or individual sources of information.

Sec. 6. A child's parent or legal guardian who wants information concerning the child removed from the birth defects information system shall request from the local health department or the child's physician a form prepared by the secretary. On request, a local health department or physician shall provide the form to the child's parent or legal guardian. The individual providing the form shall discuss with the child's parent or legal guardian the information contained in the system. If the child's parent or legal guardian signs the form, the local health department or physician shall forward it to the secretary. On receipt of the signed form, the secretary shall remove from the system any information that identifies the child.

Sec. 7. Not later than 180 days after the effective date of this section, the secretary of health and environment shall adopt rules and regulations in accordance with the provisions of this act to do all of the following subject to available funding:

- (a) Implement the birth defects information system;
- (b) specify the types of congenital anomalies and abnormal conditions of newborns to be reported to the system under section 3, and amendments thereto;
- (c) establish reporting requirements for information concerning diagnosed congenital anomalies and abnormal conditions of newborns;
- (d) establish a form for use by parents or legal guardians who seek to have information regarding their children removed from the system and a method of distributing the form to local health departments and to physicians. The method of distribution must include making the form available on the internet.

Sec. 8. Three years after the date a birth defects information system is implemented pursuant to section 3, and amendments thereto, and annually thereafter, the secretary shall prepare a report regarding the birth defects information system. The department shall file the report with the governor, the president and minority leader of the senate, the speaker and minority leader of the house of representative, the departments of social and rehabilitation services, education and human resources.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 13, after the semicolon, by inserting “establishing a birth defects information system; providing for administration by the secretary of health and environment and for collection of data”, and **HB 2423** be passed as amended.

S Sub for HB 2444 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Morris on page 45, following line 2, by inserting a new section to read as follows:

“Sec. 79.

LEGISLATIVE COORDINATING COUNCIL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Legislative research department special revenue fund

For the fiscal year ending June 30, 2003..... No limit

For the fiscal year ending June 30, 2004..... No limit”

Senator Morris further amended the bill on page 4, in line 1, by striking “the effective date of this act, of the \$3,408,099” and inserting “July 1, 2003, of the \$3,189,583”; in line 3, by striking all before “from” and inserting “§3(a) of 2003 Senate Bill No. 6”

Senator Morris further amended the bill on page 18, after line 31, by inserting the following:

“(h) On July 1, 2003, the position limitation established for the fiscal year ending June 30, 2004, by section 85(a) of 2003 Senate Bill No. 6 for the department of corrections is hereby increased from 3132.5 to 3135.5.”

Senator Morris further amended the bill on page 12, in line 23, by striking all after “state”; in line 24, by striking all before “fund” and inserting “general”

Senator Morris further amended the bill on page 38, by striking all in line 1;

On page 40, following line 17, by inserting the following:

“(r) On the effective date of this act, of the \$349,141,838 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 50(a) of 2003 Senate Bill No. 6 from the state general fund in the other medical assistance account, the sum of \$4,300,351 is hereby lapsed.”

Senator Morris further amended the bill on page 2, in line 21, by striking “\$37,443,758” and inserting “No limit”

Senator Morris further amended the bill in line 13, following “authority” by inserting “from the children’s initiative fund for fiscal year 2004”; in line 19, following “appropriated” by inserting “from the children’s initiatives fund”

Senator Barnett amended **S Sub for HB 2444** on page 29, following line 28, by inserting the following material to read as follows:

“Sec. 49.

EMPORIA STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

National board certification/future teacher academy
For the fiscal year ending June 30, 2004 \$150,000”;

And by renumbering the remaining sections accordingly

Senator Corbin amended **S Sub for HB 2444** on page 3, following line 37, by inserting the following:

“(b) On July 1, 2003, the amount of \$500,000 authorized by section 44(g) of 2003 Senate Bill No. 6 to be transferred from the horse fair racing benefit fund to the state general fund is hereby decreased to \$300,000.”

Senator Goodwin amended **S Sub for HB 2444** on page 40, after line 17, by inserting the following:

“(r) During the fiscal year ending June 30, 2004, of the expenditures authorized by section 50 of Senate Bill No. 6 for HCBS/MRDD services, reimbursement rates for consumers with documented extraordinary needs who currently receive, have been approved for or leave a state institution or private institutional setting and are approved for special tier and individualized rates shall be maintained at a level no lower than the rate of reimbursement for these consumers on July 1, 2002: *Provided further*, That any reductions in HCBS/MRDD funding in fiscal year 2004 shall be implemented based on information and recommendations obtained in the most recent rate study required under subsection (a)(3) of K.S.A. 39-1806 and amendments thereto.”

Senator Wagle amended **S Sub for HB 2444** on page 28, following line 27, by inserting the following:

“(c) In addition to the other purposes for which expenditures may be made by the state board of regents for fiscal year 2004, expenditures shall be made by the above agency to assure that each university under the jurisdiction and control of the state board of regents develops a policy on the use of sexually explicit materials, including videos, as part of the curriculum of human sexuality classes or other similar classes for undergraduate students, a policy on teaching about the issue of pedophilia as part of such classes and a policy on sexual harassment as it relates to teaching such classes: *Provided*, That such policies shall be developed and implemented prior to January 12, 2004, and the state board of regents shall keep on file a current copy of such policies and make them available to the public upon request.”

Senator Huelskamp amended **S Sub for HB 2444** on page 40, following line 17, by inserting the following material to read as follows:

“(r) Notwithstanding the provisions of any other statute, no expenditures shall be made by the department of social and rehabilitation services for fiscal year 2004 from the moneys appropriated from the state general fund or any special revenue fund, under the state medicaid plan, to reimburse, without prior authorization, for prescription drugs and drug services under the state medicaid plan for drugs otherwise excluded from the state medicaid preferred drug formulary pursuant to K.S.A. 2002 Supp. 39-7,121a, and amendments thereto, where the prescriber has personally written “dispense as written” or “D.A.W.”, or has signed the prescriber’s name on the “dispense as written” signature line in accordance with K.S.A. 65-1637, and amendments thereto.”

Senator Oleen amended **S Sub for HB 2444** by striking all in lines 9 through 12; following line 12 by inserting the following:

“Additional operating expenditures—Kansas soldiers’ home and Kansas veterans’ home
For the fiscal year ending June 30, 2004..... \$225,000
For the fiscal year ending June 20, 2005..... \$225,000
Additional operating expenditures—state veterans’ cemeteries
For the fiscal year ending June 30, 2004..... \$50,000”

Senator Kerr amended **S Sub for HB 2444** on page 3, after line 4, by inserting the following:

“(h) On July 1, 2003, the expenditure limitation established by section 42(b) of 2003 Senate Bill No. 6 on the income tax refund fund is hereby decreased from no limit to

\$396,525,000: *Provided*, That, notwithstanding the provisions of K.S.A. 79-32,105 and amendments thereto, section 42(b) of 2003 Senate Bill No. 6, or any other statute, expenditures from the income tax refund fund for the fiscal year ending June 30, 2004, shall not exceed the expenditure limitation prescribed for the income tax refund fund for fiscal year 2004, except upon approval by the state finance council."

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brownlee, Buhler, Bunten, Clark, Donovan, Emler, Harrington, Jackson, Jordan, Kerr, Morris, Oleen, Pugh, Salmans, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Allen, Barone, Brungardt, Corbin, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Huelskamp, Lee, Lyon, O'Connor, Schmidt, Steineger.

The motion carried and the amendment was adopted

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on the roll call amendment which limits tax refunds in FY '04 to \$415 million of the estimated \$474.5 million refunds due. That amendment forces certain Kansans due refunds in 2004 to wait to receive their refunds. This is an unfair approach to the state's fiscal problems, and breaks faith with the very people on whom the state depends most for its revenue.

As a result of the state having too little income and too many expenses, we are choosing to use other peoples' money as our own. This is bad tax policy! This tax refund component balances the budget on the backs of Kansas' best taxpayers—those who overpay their taxes. It penalizes taxpayers who give the state an interest-free loan, by forcing them to wait additional time for their tax refunds. In addition—it's a smoke and mirrors approach which creates the *illusion* of a balanced budget. Our fiscal problems remain. I vote NO.—BARBARA P. ALLEN

The Committee recommended **S Sub for HB 2444** be passed as amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 284**; **HB 2423**; **S Sub for HB 2444** were advanced to Final Action and roll call.

SB 284, An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 44-704b and 44-709, K.S.A. 2002 Supp. 79-3271, K.S.A. 8-240, as amended by section 1 of 2003 Senate Bill No. 16, K.S.A. 8-1324, as amended by section 3 of 2003 Senate Bill No. 16, K.S.A. 38-1602, as amended by section 2 of 2003 House Bill No. 2314, K.S.A. 2002 Supp. 44-706, as amended by section 6 of 2003 House Bill No. 2353, K.S.A. 72-6409, as amended by section 1 of 2003 House Bill No. 2006, K.S.A. 72-8205, as amended by section 1 of 2003 Senate Bill No. 57, and K.S.A. 2002 Supp. 75-6102, as amended by section 1 of 2003 Senate Bill No. 34, and repealing the existing sections; also repealing K.S.A. 2002 Supp. 75-6102b, 79-1476b, 79-3226c and 79-3271a, K.S.A. 8-240, as amended by section 2 of 2003 House Bill No. 2192, K.S.A. 8-1324, as amended by section 4 of 2003 House Bill No. 2192, K.S.A. 38-1602, as amended by section 1 of 2003 House Bill No. 2016, K.S.A. 2002 Supp. 44-706, as amended by section 2 of 2003 House Bill No. 2332, K.S.A. 72-6409, as amended by section 8 of 2003 Substitute for Senate Bill No. 83, K.S.A. 72-8205, as amended by section 1 of 2003 Senate Bill No. 55, K.S.A. 72-9901, as amended by section 12 of 2003 House Bill No. 2006, and K.S.A. 2002 Supp. 75-6102, as amended by section 1 of 2003 House Bill No. 2068.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2423, An act concerning the department of health and environment; relating to financing the civil registration and health statistics functions thereof; establishing the civil registration and health statistics fee fund; prescribing certain fees; establishing a birth defects information system; providing for administration by the secretary of health and environment and for collection of data amending K.S.A. 65-2418 and repealing the existing section; also repealing K.S.A. 65-2418b and 65-2418d.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

S Sub for HB 2444, An act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008, June 30, 2009, and June 30, 2010; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; amending K.S.A. 2002 Supp. 79-3425c and 82a-953a, as amended by section 131 of 2003 Senate Bill No. 6, and repealing the existing sections.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Goodwin, Harrington, Jackson, Jordan, Kerr, Morris, O'Connor, Oleen, Pugh, Salmans, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Allen, Barone, Downey, Feleciano, Gilstrap, Gooch, Haley, Hensley, Huelskamp, Lee, Lyon, Schmidt, Steineger.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **S Sub for HB 2444**. I hoped we would be working together this veto session to find a bi-partisan solution.

Instead, the most onerous budgetary maneuver I have seen in my 27 years as a legislator was put onto this bill. Instead of paying taxpayers their refunds in a timely manner, instead of making use of the hundreds of millions of dollars in technology the state invested into delivering checks faster than ever, it will now be state policy to hold those checks for as much as four months.

That adversely affects the struggling single mother who has qualified for the earned income tax credit and was relying on it to feed her children, and elderly Kansans who await their homestead property tax refund to keep the lights on.

I wonder, how would Senators feel if legislative pay was held four months? How would they feel if they weren't paid until the Legislature adjourned in May?

This is not our money. This money belongs to the people of Kansas. A vote for this bill is a vote to rob hundreds of thousands of Kansans. I may have been called many things, but by voting no, I know that I won't be called a thief.—ANTHONY HENSLEY

Senators Feleciano and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub for HB 2444**.

MESSAGE FROM THE HOUSE

Announcing the veto message from the Governor on **House Bill 2176**, AN ACT concerning abortion clinics; providing for regulation, licensing and standards for the operation thereof; providing penalties for violations and authorizing injunctive actions, which was received April 18, 2003 and read on April 30, 2003.

Health care facilities should be safe, clean and appropriate for the best medical care possible in every circumstance and for every medical procedure. Kansans experience and appreciate

some of the highest standards for medical care in the country. Standards for health care facilities in Kansas have been developed by physicians and medical personnel. The health care facilities addressed in this bill are already subject to those high standards. I have long fought to make sure that doctors and patients, not insurance companies and not the Kansas Legislature, make decisions regarding an individual's health care procedures. For these same reasons I veto **HB 2176**, in which the legislature, instead of physicians and medical personnel, would regulate health care procedures.

Dated: April 21, 2003

Kathleen Sebelius, Governor

A motion was made that, notwithstanding the Governor's objections, **House Bill 2176**, the bill be passed. By a vote of 73 Yeas and 50 Nays, the motion failed to receive the necessary two-thirds constitutional majority vote of the elected members of the House of Representatives, and the veto of **House Bill 2176** was sustained.

MESSAGE FROM THE HOUSE

Announcing the veto message from the Governor on **House Bill 2212**, AN ACT concerning cities; relating to annexation; amending K.S.A. 12-523 and repealing the existing section, which was received April 18, 2003 and read on April 30, 2003.

HB 2212 creates a set of standards for annexation in Shawnee County while not enforcing those same standards on all counties in Kansas. Similar legislation was passed in 1987, and as a member of the House of Representatives, I did not support that legislation. I believe that all cities and counties in the State of Kansas should follow the same rules, especially when it comes to issues of annexation. For this reason, I veto **HB 2212**.

Due to the fact that **HB 2212** would only be applicable to one county, it is likely to be found unconstitutional. I believe a challenge should be considered for the law passed in 1987.

SIGNED April 18, 2003

Kathleen Sebelius
Governor

There being no motion to reconsider the veto of **House Bill 2212**, the Speaker ruled the veto sustained.

MESSAGE FROM THE HOUSE

Announcing the veto message from the Governor on **House Bill 2288**, AN ACT concerning elections; relating to conformity with the help America vote act of 2002; amending K.S.A. 25-216, 25-414, 25-1122d, 25-1216, 25-2111, 25-2908 and 25-3008 and K.S.A. 2002 Supp. 25-106, 25-409, 25-2309 and 25-2706 and repealing the existing sections, which was received April 18, 2003 and read on April 30, 2003.

We have a rich history and tradition in Kansas of working to increase citizen participation in our democracy. Voting has indeed become easier and more convenient in our state over the past decade due to measures like advance voting.

It is my belief that **House Bill 2288**, the Kansas provisions of the federal Help Americans Vote Act, goes against our state's long standing tradition of striving to achieve greater voter participation in our democratic process. I have long been a proponent of personal privacy and I keenly understand how protective Kansans are of their privacy. The needless identification requirements of **HB 2288** will only work to create mistrust among many of the electorate and serve as a barrier for our continued desire for increased voter participation.

Therefore, I veto **HB 2288**.

The requirements of the federal government in the Help Americans Vote Act are very clear, and I wholeheartedly embrace them. However, **HB 2288** reaches beyond those fundamental guidelines and may actually run the risk of hampering citizen involvement in their government.

There exists an opportunity to obtain federal funding to assist with the implementation of provisions relating to HAVA. Initial funds to the states from the federal government to implement certain aspects of HAVA, such as bringing Kansas polling places into ADA compliance, will be automatic. Other funds will be available to Kansas, contingent upon compliance with the federal minimum requirements.

A federal board on election administration will ultimately determine compliance with the federal requirements of HAVA. This board has not yet been appointed or confirmed at the federal level. Kansas has time to enact legislation that will meet the federal requirements and not place receipt of these federal funds in jeopardy.

Therefore, I challenge the legislature to work with me and the Secretary of State during the upcoming legislative veto session to craft a law that will strike an appropriate balance between satisfying the minimum federal requirements for HAVA, ensuring citizen's privacy, and carrying on the proud Kansas tradition of empowering citizen involvement in their government through voting.

SIGNED April 18, 2003

Kathleen Sebelius
Governor

A motion was made that **HB 2288**, notwithstanding the Governor's objections, be reconsidered. By a vote of 76 Yeas and 47 Nays, the motion having not received the necessary two-thirds constitutional majority vote of the elected members of the House of Representatives, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits certificate of action by the House of Representatives on **Senate Bill 134**, AN ACT concerning land and water recreational areas; relating to limited liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-3202 and repealing the existing sections.

The veto message from the Governor having been received, a motion was made that notwithstanding the Governor's objections to **Senate Bill 134**, the bill be passed. By a vote of 72 Yeas and 51 Nays, the motion having received the required two-thirds majority of the members elected to the House of Representatives not voting in the affirmative, the bill did not pass.

CERTIFICATE

In accordance with K.S.A. 45-308, it is certified that, **Senate Bill SB 134**, An act concerning land and water recreational areas; relating to limited liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-3202 and repealing the existing sections, was not approved by the Governor on April 14, 2003; was returned by her with her objections and approved on April 30, 2003, by two-thirds of the members elected to the Senate notwithstanding the objections of the governor; was reconsidered by the House but failed to be approved on May 2, 2003 by two-thirds of the members elected to the House of Representatives as required by the Constitution and laws of the State of Kansas.

This certificate is made this 2nd day of May, 2003, by the Speaker and Chief Clerk of the House.

Janet E. Jones

Chief Clerk of the House of Representatives of the State of Kansas

Doug Mays

Speaker of the House of Representatives of the State of Kansas

MESSAGE FROM THE HOUSE

Announcing the House concurs in Senate amendments to **HB 2125** and requests the Senate to return the bill.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Saturday, May 3, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

