

Journal of the Senate

SIXTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, May 20, 2005—10:00 a.m.

As provided by **HCR 5020**, the Sine Die Session of the regular 2005 Kansas Senate was called to order by President Morris.

The roll was called with thirty-six senators present.

Senators Allen, Barnett, Palmer and Wagle were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

This is the final day
Of this year's session,
Except for committee meetings,
We return to our profession.

Unless a special session's called
To deal with education,
Which no doubt will cause
A bit of aggravation.

In the four and twenty years
I've been Chaplain here,
There's been one special session
Eighty-seven was the year.

They called us back, O Lord,
To provide some funds
For Kansas highways
In six days we were done.

Whatever happens this year, Lord,
For each Senator I pray
You will keep them safe and well.
And give them strength for every day.

Bless their families back home
Provide for all their needs;
And while serving their constituents,
help them to succeed.

I pray from my heart in the name of Jesus Christ,

AMEN

REPORT ON ENGROSSED BILLS

SB 43; H Sub for SB 272 reported correctly engrossed May 2, 2005.

SB 298 reported correctly engrossed May 3, 2005.

REPORT ON ENROLLED BILLS

SB 1862 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 2, 2005.

SR 151, SB 215 reported correctly enrolled, properly signed and presented to the governor on May 2, 2005.

SB 43, SB 72, SB 118, SB 216, SB 266; H Sub for SB 272, H Sub for SB 273; SB 298, SB 304 reported correctly enrolled, properly signed and presented to the governor on May 6, 2005.

MESSAGE FROM THE GOVERNOR

SB 151, SB 215 approved on May 9, 2005.

H Sub for SB 272 approved on May 10, 2005.

SB 118, SB 216, SB 266, SB 304 approved on May 11, 2005.

SB 43; H Sub for SB 273 approved on May 12, 2005.

SB 72, SB 298 approved on May 13, 2005.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Senate Substitute for HB 2482**.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2518**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL No. 2518," as follows:

"SENATE Substitute for HOUSE BILL No. 2518

By Committee on Ways and Means

AN ACT concerning the Kansas national guard; providing for certain death benefits; making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; amending K.S.A. 75-3713b and section 47 of 2005 Senate Substitute for House Bill No. 2482 and repealing the existing sections."; and the substitute bill be passed.

ORIGINAL MOTION

Senator D. Schmidt 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 bill: **S Sub for HB 2518**.

FINAL ACTION

Senator D. Schmidt moved an emergency be declared, the rules suspended, and **S Sub for HB 2518** be advanced to final action, debate and roll call.

S Sub for HB 2518, An act concerning the Kansas national guard; providing for certain death benefits; making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; amending K.S.A. 75-3713b and section 47 of 2005 Senate Substitute for House Bill No. 2482 and repealing the existing sections.

The committee report on **HB 2518** recommending a **S Sub for HB 2518** be adopted, and the substitute bill be passed.

On roll call, the vote was: Yeas 36, Nays 0, Present and Passing 0, Absent or Not Voting 4.

Yeas: Apple, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Barnett, Palmer, Wagle.

The substitute bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Hensley and Apple introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1866—

A RESOLUTION honoring Ronald A. Averyt, Ph. D. for giving a lifetime of effort to Ottawa University.

WHEREAS, Dr. Ronald Averyt has been awarded an honorary membership in the Ottawa University Alumni Association, an award which he richly deserves. He commenced his teaching career at Ottawa University in 1961 and continued there for 38 years, retiring from active teaching in 1999. His efforts on behalf of the University, however, continue to this day; and

WHEREAS, Dr. Averyt enriched the lives of many students by stressing independence of thought, always asking students to think with clarity and sharpness and to behave in ways consistent with high expectations. He was known for his unwillingness to accept student apathy and disinterest. He was also known for his willingness to assist students; they benefited from his personalized spring break field trips and were exposed to the nuances of history and politics through travel. He was repeatedly honored with awards such as “most inspirational” and “most effective”. He was named the Professor of the Year in 1977, the Sibyl Martin Distinguished Professor in 1986-87 and was the recipient of the prestigious Class of 1966 Award three times for being the most influential in the lives of students; and

WHEREAS, As an historian and humorist he lent his speaking talents to the Kansas Humanities Council beginning in 1999, speaking on such topics as “My Vote Wasn’t Bought, Just Rented”, “The Humor of Politics” and “Don’t Squat with Your Spurs On: Western Humor”; and

WHEREAS, Before retiring he helped raise funds for new sidewalks throughout the campus. He has been a zealous supporter of sports at Ottawa University with personal and financial contributions. Since retiring he has helped advance the University by raising funds for various scholarships and for the athletic teams. He has attended multiple alumni functions promoting the vision and mission of the University and truly exemplifies the spirit of the University: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor and commend this man of letters who has given his entire life’s work to the advancement of Ottawa University and the students he has known at this institution; and

Be it further resolved: That the Secretary of the Senate provide two enrolled copies of this resolution to Dr. John E. Neal, President, Ottawa University, 1001 South Cedar, Ottawa, KS 66067-3399 for presentation to Dr. Averyt and the University.

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

Senators V. Schmidt, Hensley and Kelly introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1867—

A RESOLUTION congratulating and commending the Topeka High School Marine Corps Junior Reserve Officers Training Corps (MCJROTC) and Senior Marine Instructor Gunner Kelley for becoming national drill champions.

WHEREAS, The Topeka High School MCJROTC drill teams displayed great confidence, skill and military bearing during the grueling West Coast National JROTC Drill Competition in Redondo Beach, California, on April 2, 2005; and

WHEREAS, The Topeka High School MCJROTC drill teams represented the State of Kansas, and Topeka in particular, at the West Coast National Drill Competition, competing against 300 other teams; and

WHEREAS, The Topeka High School MCJROTC armed drill team captured the armed sweepstakes award, first place in armed exhibition drill, third place in armed regulation drill and fourth place in armed inspection; and

WHEREAS, The Topeka High School MCJROTC unarmed drill team captured third place in unarmed regulation drill; and

WHEREAS, The Topeka High School MCJROTC color guard captured the sweepstakes award, outstanding color guard commander award, first place in regulation drill and first place in inspection; and

WHEREAS, Cadet Dell Fletcher captured first place in the pull-up competition; and

WHEREAS, The team members were Quinton Alexander, Jessie Barajas, Catherine Brennan, Adam Brown, Ashlee Burress, Daniel Byrd, Kimberly Cherry, Kristen Cobler, Andrew Cox, Randall Cunningham, Josh Curry, Todd Demler, James Denton, Ashly Eakes, Dell Fletcher, Blake Hamilton, Merlin Hollis, Josh Joynt, Steven King, Manuel Lee, Archie Marks, Trey Massengale, Andrew Pagel, Adam Pfeifer, Joshua Pritchard, Aubrey Ragan, Antonio Rangel, Celena Rangel, Valyant Reed, Cory Russell, Bradley Smith and Ashly Wood; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit, continuous training, outstanding military bearing and determination to win. The team also had the enthusiastic support of the school's administrators, the faculty, the students, the parents, 9th Marine Corps District Semper Fi Society and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Topeka High School MCJROTC drill teams and Senior Marine Instructor Gunner Kelley be congratulated and commended for winning the 2005 High School National Drill Competition; and

Be it further resolved: That the Secretary of the Senate provide 35 enrolled copies of this resolution to Clardy Vinson, Principal, Topeka High School, 1500 W. 10th, Topeka, KS 66612.

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

Guests introduced and welcomed were J. C. Denton, Randall Cunningham, Blake Hamilton, Merlin Hollis and Celena Rangel.

Senators Brownlee, O'Connor and Wilson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1868—

A RESOLUTION congratulating and commending Dr. Ron Wimmer.

WHEREAS, Dr. Ron Wimmer, Superintendent of Schools for the Olathe District Schools, is retiring June 30 after giving 40 years of outstanding service to the Olathe school system. He has spent his entire professional career with the Olathe schools during which time the district grew from 3687 students in 1965 to 23,634 students in 2005: and

WHEREAS, Dr. Wimmer commenced his teaching career as a Spanish teacher, and one of his students was Karin Brownlee, the primary sponsor of this resolution. He advanced in the school system serving as a junior high school assistant principal, junior high principal, director of personnel, assistant superintendent and as superintendent of schools from 1991 through 2005. Throughout his career he has been recognized for his commitment to excellence in all that he does; and

WHEREAS, A leader in his profession, Dr Wimmer has served on the Board of Directors of the Kansas School Administrator's Association and the Kansas State High School Activities Association, and was named the Kansas Superintendent of the Year for 1997. Among the many professional recognitions he has received are the 2005 Friend of Education Award by the Kansas National Education Association, 2004 Outstanding Service Award by the United School Administrators of Kansas, 2001 Star Leadership Award by the Alliance of Community Educators, 1994 Outstanding Educator by the Greater Kansas City Phi Delta Kappa and a Meritorious Achievement Award by Pittsburg State University; and

WHEREAS, During the past 40 years at Olathe Dr. Wimmer has been active in civic affairs of his community. He has served on the Council of Advisors for the United Community Services of Johnson County, Board of Directors and past Board Chair of the Olathe Chamber of Commerce, Board of Directors of the Metropolitan Arts Council of Kansas City, Johnson County Business Leadership Forum, Olathe Economic Development Council and the Santa Fr Trail Rotary Club. He has been named the Olathe Citizen of the Year, the Rotarian of the Year and Communicator of the Year; and

WHEREAS, The Olathe school system and the entire Olathe community are indeed fortunate to have had this dedicated and talented person start his teaching career in Olathe, to advance in his profession while remaining in Olathe and to give 40 years of outstanding service to this community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the body congratulates and commends Dr. Ron Wimmer for giving 40 years of outstanding service to the Olathe District Schools, the Olathe community and the State of Kansas; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Dr. Ron Wimmer, Olathe District Schools, 14160 Blackbob Road, Olathe, KS 66063.

On emergency motion of Senator Brownlee **SR 1868** was adopted unanimously.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **Senate Substitute for House Bill 2507**, AN ACT concerning the legislature; providing for appointment of the legislative counsel; concerning the composition of the joint committee on special claims against the state; amending K.S.A. 46-912 and 46-1222 and repealing the existing sections; also repealing K.S.A. 46-1223, was received on May 16, 2005 and read on May 20, 2005.

Pursuant to Article 2, Section 14 of the Kansas Constitution I veto **House Bill 2507**.

One fundamental principle of representative democracy is that minority rights must be protected, especially when majorities are powerful. Legislative rules provide some protection for minority voices, as does the separation of powers. In the regular legislative session, majorities can govern, but their bills are subject to the executive's veto.

Within the legislative branch of government, the Legislative Coordinating Council is charged with serving the interests of all Kansas citizens while the legislature is out of session. Therefore, it is important that all of the elected representatives who serve as members of the Legislative Coordinating Council have an effective voice in the process.

If enacted into law, **HB 2507** would undermine the ability of minority-party representatives on the Legislative Coordinating Council to affect some crucial decisions. In that the council represents the Legislature as a whole, and by extension the entire Kansas citizenry, minority-party rights must be vigorously protected; otherwise, many citizens will go unrepresented by a body that has substantial policy-making authority.

With these considerations in mind, I must veto **House Bill 2507**.

Dated May 16, 2005

KATHLEEN SEBELIUS
Governor.

A motion was made that, notwithstanding the Governor's objections, the veto to **Senate Substitute for House Bill 2507** be reconsidered. By a vote of 75 Yeas and 37 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 **Senate Substitute for House Bill 2482** was sustained.

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the **line item** veto message from the Governor, of **Senate Substitute for House Bill 2482**, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, 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. 2004 Supp. 82a-953a, section 150 of 2005 Senate Bill No. 225, and section 187 of 2005 Senate Bill No. 225, and repealing the existing sections; also repealing K.S.A. 2004 Supp. 82a-953a, as amended by section 186 of 2005 Senate Bill No. 225, which was received on May 16, 2005 and read on May 20, 2005.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2482 with my signature approving the bill, except for the items enumerated below.

Social and Rehabilitative Services

Section 9(p) that reads as follows has been line-item vetoed:

“During the fiscal year ending June 30, 2006, no moneys paid by the department of social and rehabilitation services from the mental health and retardation services aid and assistance of the state general fund shall be expended by the entity receiving such moneys to pay membership dues and fees to any entity that does not provide the department of social and rehabilitation services, the legislative division of post audit, or another state agency with access to its financial records upon request for such access.”

I veto Section 9(p) of Senate substitute for House Bill 2482. This proviso would prohibit moneys paid from the mental health and retardation services aid and assistance account from being used to pay membership dues or fees to any entity, unless that entity opened its financial records to the state upon request. This proviso represents an unreasonable government intrusion into the finances of private organizations, and it would expose these organizations' financial records in their entirety, not just those that pertain to state business. Such a requirement goes well beyond any reasonable use of government power.

Dated May 16, 2005

KATHLEEN SEBELIUS
Governor.

There being no motion to reconsider the line item, the Speaker ruled the line item veto sustained.

MESSAGE FROM THE HOUSE

Announcing the House concurs in senate amendments to **Senate Substitute for HB 2518**.

There being no further business to be considered, Senator D. Schmidt moved, as provided in **HCRA 5020**, the Senate adjourn sine die. The motion prevailed.

President Morris thereupon announced: “By virtue of the authority vested in me as President of the Senate, I now declare the 2005 session of the Kansas Senate adjourned.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

