# Journal of the Senate

## FIFTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Monday, May 3, 2010—2:30 p.m.

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

Heavenly Father,

Two months ago my prayer dealt with the eight beatitudes with which Jesus began His Sermon on the Mount. Today I would like to thank You for each beatitude one day at a time. (Unless You lead me to a different subject.)

The first beatitude is

"Blessed are the poor in spirit, for theirs is the kingdom of heaven."

We find the word "Blessed" Means joy and peace (From the Hebrew "shalom") Neither of which will cease.

All of the beatitudes Are intended to employ The ways to experience Your peace and Your joy.

The "poor in spirit" have no confidence In their achievements and success, But are solely dependent On God to bless.

The Kingdom of God is also promised To those who are spiritually poor; Which guarantees their joy and peace Will forever more endure!

I thank You, Lord, in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated: Judiciary: **SB 587**.

### CHANGE OF REFERENCE

The President withdrew S Sub for HB 2360 from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on Ways and Means.

1404

The President withdrew **S Sub for HB 2631** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Ways and Means**.

#### MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor, together with the enrolled copy of **SENATE SUBSTITUTE for HOUSE BILL No. 2115**, AN ACT concerning abortion; amending K.S.A. 65-445, 65-6701, 65-6703 and K.S.A. 2009 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713, was received on April 15, 2009, and read on April 28, 2010.

"Kansas' current law concerning abortion was passed more than a decade ago and strikes a reasonable balance on a very difficult issue. I support the current law and believe that an annual legislative battle over the issue is not in the public's best interest.

"My view is that all abortions are tragedies, which is why I would encourage women who have unwanted pregnancies to consult with their partners, families, doctors and spiritual advisors. I would not encourage women to consult with state legislators, as this is a private decision and should not be dictated by public officials.

"Therefore, with respect to people on both sides of the issue, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto S. Sub HB 2115."

Mark Parkinson, Governor

Dated: April 15, 2010

A motion was made that, notwithstanding the Governor's objections to **SENATE SUBSTITUTE for HOUSE BILL No. 2115**, the bill be passed. By a vote of 86 Yeas and 35 Nays, the motion having received the required two-thirds majority of the elected members of the House of Representatives, voting in the affirmative to approve the bill, the bill did pass.

## REPORT ON ENROLLED BILLS

SR~1867, SR~1868, SR~1869, SR~1870, SR~1871, SR~1872, SR~1873, SR~1874 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 3, 2010.

## REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **SB 586** be amended on page 50, in line 16, after "Aggravated" by inserting "human";

On page 68, in line 17, after the comma where it appears the first time by inserting "38-2361, as amended by section 6 of 2010 Substitute for Senate Bill No. 353,";

In the title, on page 2, in line 8, after the comma where it appears the third time by inserting "38-2361, as amended by section 6 of 2010 Substitute for Senate Bill No. 353,"; and the bill be passed as amended.

On motion of Senator D. Schmidt, the Senate recessed until 3:15 p.m.

## AFTERNOON-SESSION

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

## 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 bills: SB 54; H Sub for Sub for SB 214.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Brungardt moved the Senate concur in house amendments to SB 54.

SB 54, An act concerning the state capitol and grounds creating the capitol preservation committee; repealing K.S.A. 75-2266 and K.S.A. 2009 Supp. 75-36, 105 and 75-36, 106.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The Senate concurred.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote YES for SB 54.

This legislation will allow our children and grandchildren and future generations to come and enjoy the history of the Brown vs. Board of Education mural on the walls of our state's capitol building.

I am grateful for this historical event of Brown vs. Board of Education which had a direct impact on my educational success and has given me the opportunity to serve in the Kansas Senate. If it were not for this historical event, perhaps I would not be here today.

Thank you, Mr. President. — OLETHA FAUST-GOUDEAU

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Faust-Goudeau.

Senator Brungardt moved the Senate concur in house amendments to **H Sub for Sub** for **SB 214**.

**H Sub for Sub SB 214**, An act concerning cities; relating to annexation of territory; amending K.S.A. 2009 Supp. 12-520 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 1, Absent or Not Voting

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Lee.

The Senate concurred.

#### EXPLANATION OF VOTE

MR. PRESIDENT: **H Sub for Sub SB 214** helps to clarify existing law.

This legislation is not about preventing annexation by cities. For advance planning of growth, consistent and safe annexation standards need to apply and do apply. Further, cities have an opportunity, under certain conditions, for "island annexation." This does not prevent cities from annexing property that is needed to legitimately plan for growth of the city.

For some time, strip annexations, aka snake annexations, have been very tightly controlled and illegitimate annexations are and always have been contrary to Kansas Law.

This legislation will identify and curtail proposed annexations that have no tangible value. For instance, if a city tried to annex a strip of property 100 feet wide and 5 miles long that snaked through the countryside without tangible value, this legislation would allow citizens to challenge such annexation.

It is my belief that valueless snake annexations serve no good public policy and therefore I vote "Aye."

Thank you Mr. President.— STEVE ABRAMS

Senators Kelsey, Lynn and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Abrams on **H Sub for Sub SB 214**.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** 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 Minority Leader of the Senate:

Kansas Bioscience Authority: K.S.A. 2009 Supp. 74-99b04

Dan Watkins, term expires March 15, 2014

Committee on Public Health and Welfare begs leave to submit the following report: The following appointments were referred to and considered by the committee and your

committee recommends that the Senate approve and consent to such appointments:

By the Kansas Health Policy Authority:

Inspector General: K.S.A. 2009 Supp. 75-7427

Nicholas M. Kramer, serves at the pleasure of the Kansas Health Policy Authority By the State Board of Healing Arts:

Executive Director of State Board of Healing Arts: K.S.A. 2009 Supp. 65-2878

Kathleen Jo Selzler Lippert, serves at the pleasure of the State Board of Healing Arts By the Governor:

State Public Trust: K.S.A. 2009 Supp. 49-512

John O. Delmont, term expires March 15, 2011

Eddie L. Hamilton, term expires March 15, 2012

Betty J. McBride, term expires March 15, 2013

Gene Bicknell, term expires March 15, 2014

James J. Dahmen, term expires March 15, 2014

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

#### REPORTS OF STANDING COMMITTEES

Committee on Ways and Means recommends that House Bill No. 2360, As Amended by House Committee, be amended as recommended by the Committee on Ways and Means, as reported in the Journal of the Senate for April 30, 2010, by substituting a new bill designated as SENATE Substitute for HB 2360, and further recommends that Senate Substitute for HB 2360 be amended on page 1, by striking all in lines 19 through 43;

By striking all on pages 2 through 7;

On page 8, by striking all in lines 1 through 14;

And by renumbering sections accordingly;

On page 15, in line 27, by striking "June" and inserting "July"; in line 28, by striking "5.6%" and inserting "5.7%":

On page 21, in line 26, by striking "June" and inserting "July"; in line 43, by striking "16.964%" and inserting "18.421%";

On page 22, in line 1, by striking "5.6%" and inserting "5.7%";

On page 23, in line 14, by striking "June" and inserting "July"; in line 15, by striking "5.6%" and inserting "5.7%'

On page 24, in line 18, by striking "June" and inserting "July"; in line 35, by striking "16.964%" and inserting "18.421%"; in line 36, by striking "5.6%" and inserting "5.7%";

On page 26, in line 26, by striking "\$33,000" and inserting "\$35,000"; On page 27, in line 27, by striking "\$16,500" and inserting "\$17,500"; also in line 27, by striking "\$88" and inserting "\$90"; in line 29, by striking "\$16,500" and inserting "\$17,500"; also in line 29, by striking "\$35,000"; in line 30, by striking "\$44" and inserting "\$45"; in line 33, by striking "\$44 or \$88" and inserting "\$45 or \$90"; in line 41, by striking "\$44 or \$88" and inserting "\$45 or \$90";

On page 28, in line 1, by striking "\$44 or \$88" and inserting "\$45 or \$90"; by striking all in lines 26 through 43;

On page 29, by striking all in lines 1 through 6; in line 7, by striking "K.S.A. 79-3371 and 79-3378 and"; in line 8, by striking "79-3301, 79-3310, 79-3310c, 79-3311, 79-3312,"; in line 9, by striking all after "79-3635,"; in line 10, by striking all before "79-3703";

On page 1, in the title, in line 9, by striking all following "to"; in line 10, by striking "products, rates;"; in line 11, by striking "and income"; in line 12, by striking all before the semicolon; also in line 12, by striking all following "amending"; in line 13, by striking "and"; also in line 13, by striking "79-3301, 79-3310, 79-"; in line 14, by striking "3310c, 79-3311, 79-3312,"; also in line 14, by striking "79-"; in line 15, by striking all before "79-3703"; and the substitute bill be passed as amended.

Also, **HB 2631** (As Amended by House Committee) be amended as recommended by the Committee on Ways and Means, as reported in the Journal of the Senate for March 15, 2010, by substituting a new bill designated as Senate Substitute for HB 2631, and further recommends that Senate Substitute for HB 2631 be amended, as further recommended by the Committee on Ways and Means, as reported in the Journal of the Senate for April 30, 2010, and further recommends that Senate Substitute for House Bill No. 2631, as amended by Senate Committee, be amended on page 85, after line 30, by inserting the following:

On page 86, by striking all in lines 35 through 43;

On page 87, by striking all in lines 1 through 4;

On page 109, in line 28, by striking "\$1,814,423" and inserting "\$1,532,869"; in line 37, by striking "\$25,420,017" and inserting "\$21,554,366";

On page 110, in line 12, by striking "\$133,149,324" and inserting "\$112,857,112"; in line 24, by striking "\$1,857,166" and inserting "\$1,551,955";

On page 115, in line 2, by striking "\$437,713,309" and inserting "\$354,900,882";

On page 116, in line 9, by striking "\$37,390,236" and inserting "\$54,284,610";

On page 117, after line 15, by inserting the following:

"(f) On July 1, 2010, or as soon hereafter as moneys are available, the director of accounts and reports shall transfer \$9,675,000 from the HBA clearing fund — remittance to admin service org account of the HBA clearing fund to the state general fund.

(g) In addition to the other purposes for which expenditures may be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2010 and fiscal year 2011 for the Kansas health policy authority as authorized by chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the Kansas health policy authority from the state general fund or any special revenue fund or funds for fiscal year 2010 or fiscal year 2011 to enter into a one-year contract for a pilot project for health care cost containment and recovery services to be implemented regarding programs of state agencies or programs responsible for the payment of medical or pharmacy claims, including the department of social and rehabilitation services, department on aging, Kansas health policy authority, juvenile justice authority, department of labor, department of health and environment and the state health care benefits program, as provided in K.S.A. 75-6501 through 75-6523, and amendments thereto: Provided, That the pilot project shall be designed to provide statewide efficiencies and cost savings across multiple state agencies and the state health care benefits program: Provided further, That the pilot project shall include services to extract savings and recover funds for health care services paid by any state agency to include, but not be limited to, the recovery of overpayments identified through claims review and provider audits; and coordination of payment between private insurers, Medicare, and other public and private payers of health care claims: And provided further, That the pilot project shall include these services and additional services as approved by the Kansas health policy authority and the affected state agency: And provided further, That the pilot project shall be supplemental to audit and recovery projects already conducted by individual state agencies and shall determine ways to improve efficiencies by coordinating audits and recovery program activities across multiple state agencies: And provided further, That the contract for the pilot project shall provide for the vendor to be compensated by a percentage of recoveries or savings attained: And provided further, That, upon completion of the pilot project, the executive directory of the Kansas health policy authority shall report to the legislature the savings generated from the pilot program and make recommendations regarding extension of the pilot program, termination of the program, or competitive procurement for the services provided thereunder. And provided further, That such contract shall be entered into through a request for proposal process: And provided however, That nothing in the contract for such pilot project shall make null and void any other contract that a selected vendor under such request for proposal may currently be entered into with the state of Kansas: And provided further, That such pilot project shall be implemented in such a manner as to coordinate with federal requirements to establish a medicaid recovery audit contract pursuant to the federal patient protection and affordable care act, H.R. 3590.";

Also on page 117, in line 38, by striking "\$134,678,400" and inserting "\$117,674,506"; On page 120, in line 4, by striking "\$66,508,295" and inserting "\$58,187,993"; in line 8, by striking "\$101,529,886" and inserting "\$86,521,952";

On page 122, in line 38, by striking "\$38,399,729" and inserting "\$39,303,198"; On page 177, in line 22, by striking "\$23,767,732" and inserting "\$23,331,916";

On page 224, after line 8, by inserting the following:

Sec. 115. On the effective date of this act, section 14 of 2010 Senate Substitute for House Bill No. 2222, is hereby amended to read as follows: Sec. 14. (a) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2010, in each account of the state general fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2010, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 5% of the amount so determined is hereby lapsed: Provided, however, That the lapse provided for in this subsection shall not apply to the appropriations or reappropriations for fiscal year 2010 in each account of the state general fund for the state board of regents, or any state educational institution under the control and supervision of the state board of

(b) On the effective date of this act, notwithstanding the provisions of K.S.A. 2-1904, 17-2233, 20-155, 20-318, 20-3122, 20-3124, 25-4119a, 32-801, 40-102, 40-110, 44-1003, 46-137a, 46-137b, 46-1102, 46-1210, 46-1211, 46-1212a, 48-203, 72-7602, 74-560, 74-601, 74-630, 74-2434, 74-2613, 74-3203a, 74-4908, 74-5002a, 74-8005, 74-8105, 74-8703, 75-412, 75-622, 75-711, 75-2535, 75-2701, 75-2935b, 75-3101, 75-3102, 75-3103, 75-3104, 75-3120, 75-3120, 75-3120, 75-3120, 75-3120, 75-31212, 75-3122, 75-3123, 75-3124, 75-3125, 75-3126, 75-3135, 75-3136, 75-3137, 75-3141, 75-3149, 75-3501, 75-5701, 75-5701, 75-5702, 75-708, 75-5903,75-6301 and 75-701 and K.S.A. 2009 Supp. 75-3135a, 75-7206, 75-7207, 75-7402 and 75-7427, and amendments thereto, or any other statute, the rate of compensation for each state officer is hereby reduced by 5% for the period commencing on the first day of the first payroll period commencing after the effective date of this act and for each payroll period thereafter chargeable to fiscal year 2010: *Provided*, That such reduction shall not apply to payroll periods commencing on or after June 13, 2010.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2010, by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by the state finance council on each special revenue fund in the state treasury is hereby decreased for fiscal year 2010 by the amount equal to 5% of the amount that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2010 for such special revenue fund, as determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports: Provided, however, That the reduction in the expenditure limitations provided for in this subsection shall not apply to the special revenue funds in the state treasury for fiscal year

2010 of the state board of regents, or any state educational institution under the control and supervision of the state board of regents.

(d) As used in this section, (1) "state agency" has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto, and includes the governor's department, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each agency of the executive branch, the legislature and each agency of the legislative branch, the judicial branch and each agency of the judicial branch;

- (2) "state officer" means (A) the governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each secretary of a department or other chief executive officer of a department of the executive branch, each member of a board, commission, council or authority of the executive branch, (B) each member of the legislature, each legislative officer specified in K.S.A. 46-137b, and amendments thereto, each member of the staff of each legislative officer specified in K.S.A. 46-137b, and amendments thereto, (C) each justice of the supreme court, each judge of the court of appeals, each district judge, each district magistrate judge, and (D) each other state officer in the executive branch, legislative branch or judicial branch of state government whose position is specified by statute or is otherwise determined to be a salaried officer of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the Constitution of the State of Kansas, and in any case "state officer" includes all salaried officers of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the Constitution of the State of Kansas; and
- (3) "compensation" means any salary or per diem compensation provided by law for a state officer.";

And by renumbering sections accordingly;

On page 308, in line 12, after "(a) (1)" by inserting "On and after the effective date of this act, notwithstanding the provisions of K.S.A. 74-4927, and amendments thereto, or any other statute, no state agency shall pay to the Kansas public employees retirement system any amounts to the group insurance reserve fund attributable to the months of April, May and June, 2010, that constitute such state agency's portion of the state's contribution to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto.

(2) On the effective date of this act, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2010, by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature, and that is budgeted for payment to the Kansas public employees retirement system as a contribution for April, May and June, 2010, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for fiscal year 2010, is hereby lapsed from each such account.

- (3) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2010, provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, by this or other appropriation act of the 2010 regular session of the legislature, or by the state finance council on each special revenue fund in the state treasury is hereby decreased for fiscal year 2010 by the amount equal to the amount that is budgeted for payment to the Kansas public employees retirement system as a contribution for April, May and June, 2010, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for fiscal year 2010, from such special revenue fund, or account thereof.
- (4) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer the amount in each account of each special revenue fund of each state agency that is equal to the aggregate of all amounts that would have been paid from such account to the Kansas public employees retirement system as a contribution for the period commencing on April 1, 2010, and ending on June 30, 2010, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, subject to any applicable federal limitations or restrictions, as certified by the director of the budget to the director of accounts and reports for fiscal year 2010, from such special revenue fund,

or account thereof, to the state general fund: *Provided*, That the amounts transferred from special revenue funds to the state general fund pursuant to this subsection (a)(4) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) (1)";

On page 309, in line 15, by striking "(a)(4)" and inserting "(b)(4)"; in line 22, after "79-4801" by inserting ", section 14 of 2010 Senate Substitute for House Bill No. 2222,";

On page 1, in the title, in line 20, after "82a-953a", by inserting ", section 14 of 2010 Senate Substitute for House Bill No. 2222,"; and the substitute bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Tuesday, May 4 2010

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, Journal Clerks. PAT SAVILLE, Secretary of the Senate.

## CORRECTION OF THE JOURNAL

Correct the Journal of the Senate on Tuesday, March 30, page 1299, under the heading of "Introduction of Bills and Concurrent Resolutions". Senators sponsoring **SCR 1630** were: Senators Morris, Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Owens, Petersen, Reitz, D. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil and Wagle.