

# Journal of the Senate

FIFTY-FOURTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 30, 2005—10:00 a.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-nine senators present.  
Senator Allen was excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,  
Basketball teams will soon be in  
What they call the Final Four.  
They've been playing lots of games  
And now there're just three more.  
They call it March Madness  
With mayhem on the floor;  
Screaming fans are in the stands,  
And upsets more and more.  
Today we welcome a local team  
Who recently made the news;  
The ladies' national champion  
The Washburn Lady Blues.  
But it occurs to me, O God,  
As our final days draw near  
We have some similarities  
Which at first do not appear.  
With school finance and deadlines,  
And social issues, too,  
There's lots of competition  
In most everything we do.  
Sometimes our score is tied,  
And time is running out;  
And tension fills the air  
When the final score's in doubt.  
We may not be good at field goals,  
Or at free throws not a whiz,  
But we have a way of showing folks  
What March Madness really is!  
Regardless of who wins the game  
Ballplayers all shake hands.  
May we also be magnanimous  
As when we first began.  
I pray in the Name of Jesus Christ,  
AMEN

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bill was introduced and read by title:

**SB 310**, An act concerning school districts; relating to school finance; relating to revenues therefor; amending K.S.A. 72-979, 72-6405, 72-6410, 72-6413, 72-6414 and 72-8801 and K.S.A. 2004 Supp. 72-978, 72-6407, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 72-6433b, by Committee on Ways and Means.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

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

Agriculture: **HB 2484**.

Assessment and Taxation: **HB 2501**

Commerce: **Sub HB 2012**.

Elections and Local Government: **HB 2529**.

Federal and State Affairs: **HCR 5017**.

Utilities: **HB 2530**.

Ways and Means: **SB 309; HB 2108, HB 2398, HB 2399, HB 2507**.

**MESSAGE FROM THE GOVERNOR**

**SB 9, SB 57, SB 101, SB 105, SB 115** approved on March 28, 2005.

**SB 113** approved on March 29, 2005.

March 28, 2005

*To the Senate of the State of Kansas:*

Withdrawn herewith from confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius  
Governor

*Member, Kansas Racing and Gaming Commission*, Devoe G. Treadwell, pursuant to the authority vested in me by K.S.A. 74-8803, effective upon the date of confirmation by the Senate, to serve a term of four years.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Wysong, Francisco, Gilstrap and Pine introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1845—

A RESOLUTION congratulating and commending Wayne Simien.

WHEREAS, Wayne Simien of Leavenworth, one of Kansas' greatest basketball legends, has finished his collegiate career as a consensus first team All-American. A Kansan through and through, he started attending basketball camps at the University of Kansas while in seventh grade and has stated that attending the University of Kansas was his life-long dream; and

WHEREAS, Prior to attending the University of Kansas, Wayne was a legend at the high school level. In his senior year he led the Leavenworth Pioneers to league and state championships. In doing so he was named a McDonald's High School All-American and Mr. Basketball in Kansas for 2001. A four-year academic All-American, as a senior he was named the Scholastic Sports America Kansas Athlete of the Year; and

WHEREAS, At six feet nine inches tall and weighing 255 pounds, Wayne has the body and skills of a bruising power forward. He excelled in getting deep into the paint for close turn around shots, and if this was not possible he had a killer fade away jumper. A career shooter of over 50%, he was the power behind the Jayhawks in getting rebounds at both ends of the court. As the go-to-man of the Jayhawks, he received double and triple team defenses against him consistently—and was fouled at every opportunity. This was to the opponents' detriment as Wayne's success at the free throw line exceeded 80%; and

WHEREAS, During his four years at the University of Kansas the Jayhawks went to the NCAA national tournament every year. The team was in the elite eight in 2004, the final four in 2002 and the national runner-up in 2003; and

WHEREAS, During his collegiate career Wayne was named the Big 12 player of the week on several occasions. During the 2004-2005 season, after averaging a double-double for the season, Wayne was named to the All-Big 12 first team. Wayne was awarded All-American honors this year by Collegeinsider.com, USBWA, NABC and AP and is a finalist for the Naismith trophy; and

WHEREAS, Wayne has had a multitude of fans and supporters throughout his high school and collegiate career, but none have been more loyal or supportive than his parents, Wayne and Margaret Simien, Sr.: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Wayne Simien upon the completion of his collegiate career in Kansas basketball and wish him great success in his future endeavors. We also thank him for the role model he has provided to myriads of Kansas youth; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Wayne Simien, 250 WSAC, University of Kansas, Lawrence, KS 66045 and a copy to his parents, Mr. and Mrs. Wayne Simien, Sr., 1515 4th Avenue, Leavenworth, KS 66048.

On emergency motion of Senator Wysong **SR 1845** was adopted unanimously.

Senators Wysong, Francisco, Gilstrap and Pine, along with President Morris and members of the Senate, congratulated Wayne on his outstanding basketball career at KU and wished him well in his future endeavors.

Accompanying Wayne were his parents, Margaret and Wayne Simien, Sr., his sister, Dione Leng and KU Basketball Coach Bill Self.

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

SENATE RESOLUTION No. 1846—

A RESOLUTION congratulating and commending the Washburn University Lady Blues basketball team for winning the first NCAA National Championship in school history.

WHEREAS, The Washburn University Lady Blues basketball team finished the 2004-05 season with a record of 35 wins and 2 losses and won the NCAA Division II National Championship with a 70-53 win over Seattle Pacific University in Hot Springs, Arkansas, on March 26, 2005; and

WHEREAS, The Washburn University Lady Blues Basketball team finished the 2004-05 season as the Mid-America Intercollegiate Athletics Association Regular Season Champion with a 16-2 record, the MIAA Postseason Tournament Champion and the 2005 NCAA South Central Regional Champion; and

WHEREAS, The 2004-05 team members include: Seniors Alison Garrett, Juwana Rivers, Carla Sintra and Lora Westling; Juniors Stephanie Bouterse, Erin Menard, April Roadhouse, Jennifer Harris and Dani McHenry; Sophomores Cindy Keeley, Holly Henrichs, Brooke Ubelaker and Megan Sullivan; and

WHEREAS, The senior class of Alison Garrett, Juwana Rivers, Carla Sintra and Lora Westling had 114 wins and 18 losses over the past four years with two Elite Eight appearances, three MIAA Regular Season Championships, two MIAA Tournament Championships and the first NCAA Championship in any sport in Washburn's school history; and

WHEREAS, Individual player accomplishments were as follows:

Carla Sintra—Most Outstanding Player at the NCAA Elite Eight, WBCA/Kodak All-America Honors, All-South Central Regional Team, Most Valuable Player in the MIAA, First Team All-MIAA;

Brooke Ubelaker—First Team All-MIAA, Second Team All-South Central Region, All-South Central Regional Team;

Lora Westling—Elite Eight All-Tournament Team; Honorable Mention All-MIAA, as well as breaking Washburn's All-Time 3-point record with 144 for her career and tied the single-season record with 62;

Jennifer Harris—All-South Central Regional Tournament Most Outstanding Player, Honorable Mention All-MIAA; and

April Roadhouse—All-MIAA All-Defensive Team.

Additionally, Alison Garrett, Holly Henrichs, Cindy Keeley, Carla Sintra, Megan Sullivan and Brooke Ubelaker were all named to the MIAA Commissioner's Academic Honor Roll, and the overall team grade point average was 3.13; and

WHEREAS, The Lady Blues were coached by Ron McHenry, assisted by Dustin Odum: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Washburn University Lady Blues basketball team and Coach McHenry be congratulated and commended for their success during the 2004-05 season and for being the 2004-05 NCAA Division II Women's Basketball National Champion; and

*Be it further resolved:* That the Secretary of the Senate provide twenty-five enrolled copies of this resolution to Dr. Jerry B. Farley, President, Washburn University, 1700 College, Topeka, KS 66621.

On emergency motion of Senator Kelly **SR 1846** was adopted unanimously.

Senators honored the Lady Blues for bringing the first NCAA National Championship to Washburn with a standing ovation.

Team members introduced were Stephanie Bouterse, Ali Garrett, Jennifer Harris, Holly Henrichs, Cindy Keeley, Dani McHenry, Erin Menard, Juwana Rivers, April Roadhouse, Carla Sintra, Megan Sullivan, Brooke Ubelaker and Lora Westling, along with Head Coach Ron McHenry and Assistant Coach Dustin Odum.

Accompanying the team were Dr. Jerry B. Farley, President, Washburn University; Tom Ellis, special Assistant to the President; Blanche Parks, WU Regent; Loren Ferre, Athletic Director; Gene Cassell, Sports Information Director; Brad Noller, Assistant Sports Information Director; and Peggy Clark, University Photographer.

#### REPORT ON ENGROSSED BILLS

**SB 42, SB 121, SB 298** reported correctly engrossed March 28, 2005.

Also, **SB 19, SB 94, SB 133** correctly re-engrossed March 28, 2005.

#### REPORT ON ENROLLED BILLS

**SB 107, SB 158, SB 256** reported correctly enrolled, properly signed and presented to the Governor on March 29, 2005.

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

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### AFTERNOON SESSION

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

#### MESSAGE FROM THE GOVERNOR

March 24, 2005

*Message to the Senate of the State of Kansas:*

Enclosed herewith are Executive Orders No. 2005-01 and 2005-02 for your information.

Kathleen Sebelius  
Governor

The President announced Executive Order No. 2005-01, incorporating by reference Executive Orders 98-5, 00-06, 02-05 and 03-06, and continuing said Governor's Military Affairs Coordinating Council, until May 1, 2007, is on file in the office of the Secretary of the Senate and is available for review at any time.

The President also announced Executive Order No. 2005-02, offering a reward of five thousand dollars (\$5,000) for information leading to the arrest and conviction of the individual or individuals who committed the homicide of Carol A. Mould, is on file in the office of the Secretary of the Senate and available for review at anytime.

**MESSAGE FROM THE HOUSE**

Announcing the House nonconcur in Senate amendments to **HB 2058**, requests a conference and has appointed Representatives Vickrey, Huy and Holland as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2144**, requests a conference and has appointed Representatives Gordon, Huntington and Winn as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2308**, requests a conference and has appointed Representatives Wilk, Huff and Thull as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2357**, requests a conference and has appointed Representatives Shultz, Carter and Dillmore as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2380**, requests a conference and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 7**, and has appointed Representatives O'Neal, Jack and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 10**, and has appointed Representatives Jim Morrison, Mast and Kirk as conferees on the part of the House.

The House accedes to the request of the Senate on **House Substitute for SB 24**, and has appointed Representatives Vickrey, Huy and Holland as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 27**, and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **Substitute SB 33**, and has appointed Representatives Dahl, Novascone and Ruff as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 48**, and has appointed Representatives Decker, Horst and Storm as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 72**, and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **Substitute SB 77**, and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 78**, and has appointed Representatives Vickrey, Huy and Holland as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 82**, and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **Substitute SB 103**, and has appointed Representatives Shultz, Carter and Dillmore as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 147**, and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 151**, and has appointed Representatives Loyd, Owens and Davis as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 176**, and has appointed Representatives Shultz, Carter and Dillmore as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 178**, and has appointed Representatives Shultz, Carter and Dillmore as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 215**, and has appointed Representatives Dahl, Novascone and Ruff as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 216**, and has appointed Representatives Jim Morrison, Mast and Kirk as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 225**, and has appointed Representatives Neufeld, Landwehr and Feuerborn as conferees on the part of the House.

The House accedes to the request of the Senate on **SB 254**, and has appointed Representatives Jim Morrison, Mast and Kirk as conferees on the part of the House.

**ORIGINAL MOTION**

On motion of Senator Huelskamp, the Senate acceded to the request of the House for a conference on **HB 2058**.

The President appointed Senators Huelskamp, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **S Sub for HB 2144**.

The President appointed Senators Brownlee, Jordan and Kelly as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2308**.

The President appointed Senators Donovan, D. Schmidt and Lee as conferees on the part of the Senate.

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2357**.

The President appointed Senators Teichman, Wysong and Steineger as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2380**.

The President appointed Senators Vratil, D. Schmidt and Goodwin as conferees on the part of the Senate.

**CHANGE OF CONFERENCE**

The President announced the appointment of Senator Kelly as a member of the Conference Committee on **SB 138** to replace Senator Goodwin.

**COMMITTEE OF THE WHOLE**

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

On emergency motion of Senator D. Schmidt, **SB 304** was advanced on the calendar under the heading of General Orders to the first order of business.

On motion of Senator Taddiken the following report was adopted:

Recommended **SB 304** be amended by adoption of the committee amendments, and the bill be passed as amended.

**SB 262** be amended by motion of Senator Emler, on page 1, in line 30, before "shall" by inserting "shall be held at the time of a primary or general election and"; in line 34, by striking "either that the members be appointed or"; in line 35, by striking "If"; in line 36, by striking all before "procedure" and inserting "The"; in line 37, before "The" by inserting "Such resolution shall include a statement that a tax not to exceed one mill may be levied to finance the costs of the reorganization study commission."; in line 43, by striking "or appointed";

On page 2, in line 6, by striking "or appointment";

On page 3, in line 4, by striking "two" and inserting "three"; in line 6, by striking "seven" and inserting "14"; in line 7, by striking all after "least" and inserting "three times in the newspaper having the largest"; in line 8, before "Following" by inserting "In the notice of such hearings, there shall be included a statement that a tax not to exceed one mill may be levied to finance the costs of the reorganization study commission."; in line 28, by striking "two" and inserting "three"; also in line 28, by striking "a newspaper of general" and inserting "the newspaper having the largest"

Senator McGinn amended **SB 262**, on page 7, following line 28, by inserting:

"Sec. 10. K.S.A. 12-520 is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

- (1) The land is platted, and some part of the land adjoins the city.
- (2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity or which has primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county.

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that  $\frac{2}{3}$  of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A. 19-2753 *et seq.*, and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. *The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.*

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

(h) Any owner of land annexed by a city under the authority of this section, within 30 days next following the publication of the ordinance annexing the land, may maintain an action in the district court of the county in which the land is located challenging the authority of the city to annex the land and the regularity of the proceedings had in connection therewith.”;

By renumbering sections accordingly;

On page 1, in the title, in line 9, after “ACT”, by inserting “concerning certain municipalities; relating to form of government;”; in line 10, after “K.S.A.”, by inserting “12-520 and”; also in line 10, by striking “section” and inserting “sections”

Senator Betts amended **SB 262**, on page 3, in line 38, after “plan” by inserting “a clear statement of the effect, if any, that the proposed consolidation would have on city and county tax levies. There shall also be printed on such ballots”

Senator Wilson amended **SB 262**, on page 2, in lines 35 through 40, by striking all of subsection (c) and renumbering thereafter accordingly.

Senator Lee amended **SB 262**, on page 3, by striking all in lines 30 through 36 and inserting:

“If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the consolidation plan shall be implemented in the manner provided by the plan.

If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed consolidation plan shall not be implemented.”;

Also on page 3, in line 39, by striking all after “electors”; in line 40, by striking all before the second “of” and inserting “who reside outside the corporate limits of any city and a majority of the electors who reside within the corporate limits”, and **SB 262** be passed as amended.

The following amendment offered by Senator Betts to **SB 262** was rejected: on page 4, in line 20, after the period, by inserting “Any officers selected on the basis of election shall continue to be selected by election.”

**HB 2083** be amended by motion of Senator McGinn, as amended by House Committee, on page 6, following line 36, by inserting the following:

“Sec. 11. K.S.A. 12-520 is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

- (1) The land is platted, and some part of the land adjoins the city.
- (2) The land is owned by or held in trust for the city or any agency thereof.
- (3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity or which has primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county.
- (4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.
- (5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.
- (6) The tract is so situated that  $\frac{2}{3}$  of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.
- (7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A 19-2753 *et seq.*, and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this



section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. *The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.*

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

(h) Any owner of land annexed by a city under the authority of this section, within 30 days next following the publication of the ordinance annexing the land, may maintain an action in the district court of the county in which the land is located challenging the authority of the city to annex the land and the regularity of the proceedings had in connection therewith.

Sec. 12. K.S.A. 12-520 is hereby repealed.”;

By renumbering section 11 accordingly;

On page 1, in the title, in line 11, after “ACT”, by inserting “concerning certain municipalities;”; also in line 11, before the period, by inserting”; relating to land adjoining cities; amending K.S.A. 12-520 and repealing the existing section”, and **HB 2083** be passed as amended.

The following amendment offered by Senator Wilson to **HB 2083** was rejected: on page 2, in line 7, by striking “and” and inserting “or”;

Also on page 2, in line 12, by striking “and” and inserting “or”;

Also on page 2, in line 18, by striking “and” and inserting “or”;

Also on page 3, in line 16, by striking “and” and inserting “or”;

Also on page 3, in line 21, following “state.” by inserting:

“The reorganized city-county may not exempt from or effect changes in Article 3 of Chapter 19, Article 5 of Chapter 19, Article 7 of Chapter 19, Article 8 of Chapter 19 or Article 12 of Chapter 19 of Kansas Statutes and shall be subject to all acts of the legislature concerning elections, election commissioners, and officers and duties as such officers and the election of county officers.”;

Also on page 3, in line 23, by striking “and” and inserting “or”;

Also on page 3, in line 33, by striking “and” and inserting “or”;

**HB 2026** be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee, as amended by Senate Committee, on page 4, in line 8, by striking all after “(a)”; by striking all in lines 9 through 13; in line 14, by striking all before the period and inserting “The state board of regents shall study the KAN-ED network and the Kansas research and education network for the purpose of identifying duplication of services and inefficiencies existing between the two networks. If duplication of services or inefficiencies exist, the state board of regents shall develop a plan to reduce or eliminate such duplication of services or inefficiencies. The secretary of administration and the state board of regents shall develop recommendations regarding the manner in which the Kansas wide area network may be incorporated into the KAN-ED network”;

Also on page 4, in line 19, by striking all after “(1)”; by striking all in line 20; in line 21, by striking “(2)” and inserting “The findings of the study provided for in subsection (a);

(2) any plan for reducing or eliminating duplication of services and inefficiencies; and

(3)”;

Also on page 4, in line 22, by striking all after “the”; in line 23, by striking all before the period and inserting “KAN-ED network”, and **HB 2026** be passed as further amended.

**HB 2072** be amended by adoption of the committee amendments, be further amended by motion of Senator Reitz, as amended by Senate Committee, on page 7, preceding line 36, by inserting the following:

“Sec. 4. K.S.A. 2004 Supp. 76-729 is hereby amended to read as follows: 76-729. (a) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 12 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

- (1) Persons who are employees of a state educational institution;
- (2) persons who are in military service;
- (3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);
- (4) persons having special domestic relations circumstances;
- (5) persons who have lost their resident status within six months of enrollment;
- (6) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;
- (7) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection; and
- (8) persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state; if the person, whose dependent is eligible for authorization to pay an amount equal to resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse.

(c) *The state board of regents shall authorize the following class of persons to pay an amount equal to resident fees: Any dependent or spouse of a person in military service who is reassigned from Kansas to another duty station so long as such dependent or spouse continues to reside in Kansas.*

(d) As used in this section:

- (1) “Parents” means and includes natural parents, adoptive parents, stepparents, guardians and custodians.
- (2) “Guardian” has the meaning ascribed thereto by K.S.A. 59-3051, and amendments thereto.
- (3) “Custodian” means a person, agency or association granted legal custody of a minor under the Kansas code for care of children.

(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.

(6) "*Dependent*" means: (A) A birth child, adopted child or stepchild; or

(B) any child other than the foregoing who is actually dependent in whole or in part on the person in military service and who is related to such individual by marriage or consanguinity.

(7) "*Military service*" means any active service in any armed service of the United States and any active state or federal service in the Kansas army or air national guard.";

And by renumbering the remaining sections accordingly;

Also on page 7, in line 37, by striking "and" where it appears the second time and inserting a comma; also in line 37, before "are" by inserting "and 76-729";

In the title, in line 14, by striking the first "and" and inserting a comma; also in line 14, before the second "and" by inserting "and 76-729", and **HB 2072** be passed as further amended.

#### MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2247**.

#### CHANGE OF REFERENCE

The President withdrew **HB 2529** from the Committee on Elections and Local Government, and referred the bill to the Committee on Judiciary.

#### REPORT ON ENROLLED BILLS

**SR 1840, SR 1841, SR 1842, SR 1843, SR 1844, SR 1845** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 30, 2005.

#### REPORTS OF STANDING COMMITTEES

Committee on **Health Care Strategies** recommends **SB 306** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 306," as follows:

"Substitute for SENATE BILL No. 306

By Committee on Health Care Strategies

"AN ACT establishing the Kansas health policy authority; prescribing powers, duties and functions therefor; establishing a division of health policy and finance and a director of health policy and finance within the department of administration and transferring certain powers, duties and functions thereto; amending K.S.A. 39-7,116, 39-7,121, 65-6801, 65-6804, 65-6805, 65-6806, 65-6807 and 65-6809 and K.S.A. 2004 Supp. 39-7,118, 39-7,119, 39-7,120, 39-7,121a, 39-7,121d, 39-7,121e and 65-6803 and repealing the existing sections; also amending sections 9 through 18 of this act and repealing the existing sections; also amending K.S.A. 39-7,116, as amended by section 22 of this act, and 39-7,121, as amended by section 26 of this act, and K.S.A. 2004 Supp. 39-7,118, as amended by section 23 of this act, 39-7,119, as amended by section 24 of this act, 39-7,120, as amended by section 25 of this act, 39-7,121a, as amended by section 27 of this act, 39-7,121d as amended by section 28 of this act, and 39-7,121e as amended by section 29 of this act, and repealing the existing sections; also repealing K.S.A. 65-6808 and sections 7 and 8 of this act.";

and the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **SB 299** be passed.

Committee on **Judiciary** 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 Attorney General:

Crime Victims Compensation Board: K.S.A. 74-7303

Paula Suzanne Salazar, term expires March 15, 2009

Committee on **Ways and Means** recommends **SB 296**; **HB 2264**, as amended by House Committee; **HB 2338**, be passed.

Also, **HB 2481**, 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. 2481," as follows:

"SENATE Substitute for HOUSE BILL No. 2481

By Committee on Ways and Means

"AN ACT concerning lotteries; concerning electronic gaming, lottery facility games and other lottery games; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830 and 74-8832 and K.S.A. 2004 Supp. 19-101a and 74-8711 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 19-101k."; and the substitute bill be passed.

**HB 2301**, as amended by House Committee of the Whole, be amended on page 1, in line 39, after the last "services" by inserting ", education or information"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Thursday, March 31, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.



#### CORRECTION OF THE JOURNAL

Correct the Journal of the Senate on Friday, March 25, 2005, Page 434, under the heading of "Consideration of Motions To Concur Or Nonconcur" to include:

Senator Schodorf moved the Senate concur in house amendments to **SB 42**.

**SB 42**, An act concerning teachers; relating to licensure thereof; amending K.S.A. 71-201, 72-1381, 72-1383, 72-1387, 72-1388, 72-1389, 72-1390, 72-1392, 72-1393, 72-1394, 72-1395, 72-1396, 72-1397, 72-1398, 72-4526, 72-53,103, 72-5412, 72-5445, 74-32,101, 74-32,102, 74-32, 103 and 74-32,105 and K.S.A. 2004 Supp. 72-4470 and 72-4470a and repealing the existing sections.

On roll call, the vote was: Yeas 33, Nays 5, Present and Passing 0, Absent or Not Voting 2.

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

Nays: Huelskamp, Journey, O'Connor, Petersen, Pyle.

Absent or Not Voting: Allen, Wagle.

The Senate concurred.