

Journal of the Senate

SIXTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 2, 2012, 10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Steineger was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today I pray for Senators
As they seek to wrap things up.
Almost every year it seems
Something interrupts.

The media is faithful to remind
How much it costs each day
To keep the legislature in session
And the Chaplains' pay!

I've watched this happen for many years,
And there's never an easy solution
For the many different challenges
Which may contribute to confusion.

Lord, please help them find a way
To reach an acceptable conclusion,
So legislators and their staffers
Can relax in brief seclusion.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Teichman and Bruce introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1866—

A RESOLUTION congratulating and commending the town of Sylvania, Kansas, on the 125th anniversary of its founding on May 26, 1887.

WHEREAS, The first homesteaders in the area came from Missouri and settled in an area called Peace Creek until prairie fires forced them to resettle further south in Reno County; and

WHEREAS, Early settlers and visitors to the area were few and far between until the late 1860s and early 1870s. Those early settlers found that the area around Sylvania, nestled in the picturesque valley of the North Ninescah River, had the best water wells; and

WHEREAS, In the 1870s, the land which was to become the town of Sylvania was a sand mound measuring about 300 yards around its base located in western Reno County on the ranch of Henry S. Thompson; and

WHEREAS, In 1882, Henry S. Thompson, fondly remembered as “Uncle” Henry Thompson, came to Kansas, settled in Reno County and would have a profound and lasting influence on the founding and shaping of the town of Sylvania and the State Fair in Kansas; and

WHEREAS, Henry S. Thompson convinced the Atchison, Topeka and Santa Fe Railroad to have its Kinsley branch routed through Sylvania, Kansas. Then subsequently in 1884, the land which was to become the town of Sylvania was deeded to the Topeka and Santa Fe Railway Company which, in turn in 1886, was deeded back to Henry Thompson and his wife and immediately transferred to the Sylvania Town Company; and

WHEREAS, On April 7, 1886, the Sylvania Town Company platted the town of Sylvania and recorded said plat at the Reno County Courthouse; and the town of Sylvania was incorporated as a city of the third class less than a year later; and

WHEREAS, The town of Sylvania was named for the wife of a vice-president of the Sante Fe Railroad; and the town of Sylvania was not two months old, a newspaper reported that Sylvania already had two elevators, three lumber yards, a bank, a livery stable, a hotel and a newspaper; and

WHEREAS, At its founding, the main street of Sylvania was pure sand one foot deep bounded by elevated wooden sidewalks four feet wide. These sidewalks were replaced with brick sidewalks in the early 1900s; and

WHEREAS, In 1895, Henry S. Thompson operated a racetrack on his ranch near Sylvania known as the Sylvania Trotting and Racing Association which was a forerunner of the Kansas State Fair; and

WHEREAS, Sylvania’s favorite son, Henry S. Thompson served two terms as the president of the State Board of Agriculture and three years as a State Representative from the 76th District and was instrumental in seeing that the Kansas State Fair would be located in Hutchinson, Kansas; and

WHEREAS, Today Sylvania is known as a friendly town which extends a Kansas hometown welcome to visitors from all around the world; and

WHEREAS, During hunting season, Sylvania is well known as, and prides itself in being, one of the best upland bird areas in the Midwest; and

WHEREAS, On May 26, 2012, the town of Sylvania, Kansas, will hold a day long celebration which is open to all and which includes car shows, parades, trade booths and a dinner that evening: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the town of Sylvia, Kansas, on the celebration of its 125th anniversary; and

Be it further resolved: That the Secretary of the Senate shall send ten enrolled copies of this resolution to Senator Ruth Teichman.

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

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

SENATE RESOLUTION No. **1867**—

A RESOLUTION congratulating and commending the Hoxie High School girls' basketball team on winning the 2012 Class 1A Division I state championship.

WHEREAS, The Hoxie High School girls' basketball team won the 2012 Kansas State High School Activities Association Class 1A Division I state basketball championship with a 55-45 victory over St. John on March 10, 2012; and

WHEREAS, The game started close as Hoxie was only ahead by one point at the end of the first quarter, but the Lady Indians kept playing hard and were able to go into halftime with a five-point lead; and

WHEREAS, In the third quarter, the Lady Indians built on their lead and never looked back, winning the game by a 10 point margin; and

WHEREAS, The members of the championship team are: Mackenzie Mense, Shelby Heim, Gabi Spresser, Sarah Farber, Marlee McKenna, Danel Stithem, Kristina Farber, Carly Heim, Ellie Heim, Landee McKenna, Lexi Schamberger, Natasha Allmer, Madi Niblock, Kelsey Kelch and Quinlan Stein. Team managers are Terran Hoyt, Kelsey Geerdes and Brynn Niblock. The head coach is Shelly Hoyt and the assistant coach is Marlin Beougher: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Hoxie High School girls' basketball team on winning the 2012 Class 1A Division I state championship. Their hard work and outstanding athletic achievement are points of pride for their families, school and community. We extend our best wishes for their continued success; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Hoxie High School.

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

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

SENATE RESOLUTION No. **1868**—

A RESOLUTION congratulating the Wallace County High School girls' basketball team on winning the Class 1A Division II state championship.

WHEREAS, The Wallace County High School girls' basketball team won the 2012 Class 1A Division II state girls championship with a win over Central Christian. It was the first state championship for a Wallace County High School basketball team; and

WHEREAS, The 2012 Wallace County girls' basketball team finished the regular season with a 15-8 record and entered the state tournament ranked sixth; and

WHEREAS, Despite their low seed, the Wallace County wildcats played like they

had nothing to lose and won each of their tournament games, including the state championship against Central Christian; and

WHEREAS, The game was tied 12-12 at the end of the first quarter, but Central Christian did not miss any free throws in the second quarter and built a slight 26-23 halftime lead against the wildcats; and

WHEREAS, The wildcats never gave up and fought back to take a small lead in the second half. The game came down to the final seconds as the wildcats clung to a two-point lead and Central Christian had one last chance with five seconds left, but their final shot fell short and the wildcats won the game with a final score of 48-46; and

WHEREAS, The team members are: Hayley Pletcher, Hallie Kuhlman, Tatum Elder, Ashli Dinkel, Jenna Kriegh, Jordan Compton, Ally Dewees, Rachael Kuhlman, Rylea Rains, Sarah Dinkel and Chanity Daily. The team manager is Heidi Pletcher. The head coach is Landon Steele and the assistant coach is Kenli Allen: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Wallace County High School girls' basketball team on winning the Class 1A Division II state championship. The team, their families, the school and community should be proud of their hard work and outstanding athletic achievement. We extend our best wishes for their continued success in the future; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Wallace County High School.

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

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

SENATE RESOLUTION No. **1869**—

A RESOLUTION congratulating the Scott Community High School boys' basketball team on winning the Class 3A state championship.

WHEREAS, The Scott Community High School boys' basketball team won the 2012 Class 3A state championship with a 61-47 win over Seneca-Nemaha Valley; and

WHEREAS, This is the second straight state boys' basketball championship for the Scott Community High School beavers; and

WHEREAS, The beavers opened the game with a 15-0 run and by the third quarter had built a 22-point lead before Seneca-Nemaha Valley fought back to cut the lead to 10 points, but could never get any closer; and

WHEREAS, The beavers finished their championship season with a 25-1 record; and

WHEREAS, The members of the championship team are: Brett O'Neil, Trey O'Neil, Colten Yager, Braeden Robinson, Jeremy Clinton, Tyler Hess, Austin Habiger, Anthony Wilson, Joey Meyer, Drew Kite, Collin Ratzlaff and Brenner Wells. Team managers are Danielle Hutton, Skyler Glenn and Calvin Jarmer. The head coach is Glenn O'Neil and the assistant coaches are Brian Gentry and Scott Holt: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Scott Community High School boys' basketball team on winning the 2012 Class 3A state championship. We extend our best wishes for their continued success; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Scott Community High School.

On emergency motion of Senator Ostmeyer **SR 1869** was adopted unanimously.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF LABOR

May 1, 2012

Karin Brownlee, Secretary, submitted the 2011 Annual Report for the Kansas Department of Labor.

The President announced the above is on file in the office of the Secretary of the Senate and is available for review at any time.

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

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

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **House Substitute for SB 114**.

The House adopts the Conference Committee report on **SB 367**.

The House nonconcur in Senate amendments to **HB 2572**, requests a conference and has appointed Representatives Rhoades, Kelley and Feuerborn as conferees on the part of the House.

ORIGINAL MOTION

Senator Emler 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: **H Sub for SB 62**.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Love moved the Senate concur in House amendments to **H Sub for SB 62**.

H Sub SB 62, AN ACT concerning medical care facilities; relating to abortion; sterilization; amending K.S.A. 65-443, 65-446 and 65-447 and K.S.A. 2011 Supp. 65-444 and repealing the existing sections.

On roll call, the vote was: Yeas 23; Nays 16; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Donovan, Emler, Kelsey, King, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, A. Schmidt, Taddiken, Umbarger, Wagle.

Nays: Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Marshall, Owens, Reitz, V. Schmidt, Schodorf, Teichman, Vratil.

Absent or Not Voting: Steineger.

The Senate concurred.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on the motion to concur on **H Sub for SB 62**. I would hope that we adopt a better test than “which the person reasonably believes that may result in the termination of a pregnancy,” such as the wording “which with reasonable medical probability may result in the termination of a pregnancy” that was in an amendment offered, but not adopted, in the House. We should strive to avoid unintended consequences that could come about if a patient is directed to a clinician who is unwilling to administer drugs prescribed for that woman's health. We need to protect the ability of a health care professional to take actions and make referrals that they believe are in the best interests of a patient, especially in emergency situations. I would hope that the conference committee is given the opportunity to make changes based on the debate in the Senate before this bill becomes law. – MARCI FRANCISCO

Senators Haley and Kultala requests the record to show they concur with the “Explanation of Vote” offered by Senator Francisco on **H Sub for SB 62**.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **H Sub for SB 62**. I have never been an advocate for abortions. This bill however carries with it opportunities for unintended consequences, where a person with medical skills and training could be in a situation to deny help resulting in the death of the mother. I do not accept that as a pro-life choice but rather allows a medical professional to allow a death to occur when they have the ability to prevent it. – TIM OWENS

Senators Francisco, Huntington, Kelly, Kultala, Marshall, Reitz, V. Schmidt, Schodorf, Teichman and Vratil requests the record to show they concur with the “Explanation of Vote” offered by Senator Owens on **H Sub for SB 62**.

CONSIDERATION OF APPOINTMENTS

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

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

By the Attorney General

On the appointment to the:

Kansas Crime Victims Compensation Board, Member:

Suzanne Valdez, term expires March 15, 2016.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The appointment was confirmed.

By the Governor:

On the appointment to the:

Department of Transportation, Secretary:

Michael Steven King, serves at the pleasure of the Governor.

On roll call, the vote was: Yeas 38; Nays 0; Present and Passing 1; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Francisco.

Absent or Not Voting: Steineger.

The appointment was confirmed.

By the Governor:

On the appointment to the:

Pooled Money Investment Board, Member:

Robert Chestnut, term expires March 15, 2016.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The appointment was confirmed.

By the Governor:

On the appointment to the:

State Court of Tax Appeals, Member:

James Cooper, term expires January 15, 2016.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The appointment was confirmed.

By the Governor:

On the appointment to the:

State Court of Tax Appeals, Member:

Samuel Sheldon, term expires January 15, 2016.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco,

Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The appointment was confirmed.

REPORTS OF STANDING COMMITTEES

KPERS Select Committee recommends **Substitute for House Bill No. 2333**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL NO. 2333," as follows:

"SENATE Substitute for Substitute for HOUSE BILL NO. 2333

By KPERS Select Committee

"AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; enacting the Kansas public employees retirement system act of 2014; providing terms, conditions, requirements, benefits and contributions related thereto; relating to employer and employee contributions; member election; employment after retirement; plan of death and long-term disability benefits; members of legislature, rate of compensation; amending K.S.A. 74-4915 and 74-4919 and K.S.A. 2011 Supp. 74-4914d, 74-4920, as amended by section 2 of 2012 House Bill No. 2460, 74-4927, 74-4937, 74-4995, 74-49,205 and 74-49,213 and repealing the existing sections.";

And the substitute bill be passed.

Committee on **Reapportionment** recommends **HB 2329** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2329," as follows:

"SENATE Substitute for HOUSE BILL NO. 2329

By Committee on Reapportionment

"AN ACT concerning reapportionment; relating to congressional districts; providing for the reapportionment thereof; repealing K.S.A. 2011 Supp. 4-136, 4-137, 4-138, 4-139, 4-140, 4-141 and 4-142.";

And the substitute bill be passed.

ORIGINAL MOTIONS

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2572**.

The President appointed Senators Brungardt, Reitz and Faust-Goudeau as conferees on the part of the Senate.

COMMITTEE OF THE WHOLE

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

On motion of Senator Owens the following report was adopted:

Recommended **Substitute SB 449** be amended by adoption of the committee report recommending a substitute bill, be further amended by motion of Senator Umbarger, on page 33, in line 33, by adding \$85,000 to the dollar amount and by adjusting the dollar amount in line 33 accordingly

Sub SB 449 be further amended by motion of Senator Umbarger, on page 85, after line 42, by inserting:

"Southeast Kansas economic development.....\$500,000"

Sub SB 449 be further amended by motion of Senator McGinn, on page 1, in line 14, by striking "and"; in line 14, after "2015," by inserting "and June 30, 2016";

On page 38, in line 21, by adding \$3,975 to the amount to line 21, and by adjusting the amount in line 21 accordingly;

On page 103, line 39 by adding \$1,276,677 to the dollar amount and by adjusting the dollar amount in line 39 accordingly;

On page 105, line 6 by adding \$6,300,000 to the dollar amount and by adjusting the dollar amount in line 6 accordingly;

On page 109, in line 39, by striking "Kansas"; also in line 39, by striking "property"; also in line 39, by striking "trust";

On page 137, in line 6, by subtracting \$133,847 from the dollar amount and by adjusting the dollar amount in line 6 accordingly;

On page 170, in line 31, by subtracting \$500,000 from the dollar amount and by adjusting the dollar amount in line 31 accordingly;

On page 174, after line 12, by inserting:

“Community corrections special revenue fund No limit”;

On page 175, after line 20, by inserting:

“(i) On July 1, 2012, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 79-4805, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$500,000 from the problem gambling and addictions grant fund of the Kansas department for aging and disability services to the community corrections special revenue fund of the department of corrections.”;

On page 187, line 23 by adding \$36,480 to the dollar amount and by adjusting the dollar amount in line 23 accordingly;

On page 214, in line 42, by adding \$315,178 to the amount in line 42, and by adjusting the amount in line 42 accordingly;

On page 220, in line 4, by striking "pay" and inserting "transfer"; in line 9, by striking "pay" and inserting "transfer"; in line 14, by striking "pay" and inserting "transfer";

On page 268, in line 11, by striking “2012”and inserting “2013”; in line 12, by striking “2013” and inserting “2014”;

On page 1, in the title, in line 2, by striking “and”; also in line 2, following “2015,” by inserting "and June 30, 2016,”

Sub SB 449 be further amended by motion of Senator Bruce, on page 131, in line

10, by adding \$50,000,000 to the dollar amount and by adjusting the dollar amount in line 10 accordingly; in line 14, by adding \$27,000,000 to the dollar amount and by adjusting the dollar amount in line 14 accordingly

Sub SB 449 be further amended by motion of Senator Huntington, on page 115, in line 8, by adding \$2,500,000 to the dollar amount and by adjusting the dollar amount in line 8 accordingly; on page 117, in line 11, by adding \$2,500,000 to the dollar amount and by adjusting the dollar amount in line 11 accordingly

Sub SB 449 be further amended by motion of Senator Teichman, on page 115, in line 28, by adding \$1,933,378 to the dollar amount and by adjusting the dollar amount in line 28 accordingly;

On page 218, in line 25, by subtracting 23.00 from the number in the line and adjusting the number in line 25 accordingly; in line 27, by adding 23.00 to the number in the line and adjusting the number in line 27 accordingly

Sub SB 449 be further amended by motion of Senator Kelly, on page 268, in line 22, by striking "July 1, 2012,"; after line 25, by inserting:

"(3) On July 1, 2012, the director of accounts and reports shall transfer \$600,000 from the state general fund to the state housing trust fund established by K.S.A. 2011 Supp. 74-8959, and amendments thereto."

Sub SB 449 be further amended by motion of Senator V. Schmidt, on page 282, in line 5, by striking "years" and inserting "year"; in line 6, by striking "and 2013,"; in line 7, by striking "\$13,500,000" and inserting "\$22,500,000"; also in line 7, by striking all after "year"; in line 8, by striking all before the first comma and inserting "2013, \$36,000,000 during fiscal year 2014, \$42,750,000 during fiscal year 2015, \$49,500,000 during fiscal year 2016" also in line 8, by striking "2016" and inserting "2017"

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

On roll call, the vote was: Yeas 26; Nays 12; Present and Passing 1; Absent or Not Voting 1.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Marshall, McGinn, Morris, Olson, Owens, Petersen, Reitz, A. Schmidt, V. Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Bruce, Donovan, Lynn, Masterson, Merrick, Ostmeyer, Pilcher-Cook, Pyle, Taddiken, Wagle.

Present and Passing: Love.

Absent or Not Voting: Steineger.

The motion carried.

EXPLANATION OF VOTE

MR. PRESIDENT: We strongly support property tax relief for our hard working Kansas citizens. However, we must vote NO on the LAVTR amendment that only pretends to lower property taxes. This appropriation, which over four years will total up to 296.5 million, is nothing more than an unencumbered slush fund with no legal safeguards to ensure Kansas taxpayers will receive any real property tax relief. Instead, the LAVTR amendment is a shell game to fool Kansas citizens and further prevent real progress towards lowering property tax rates in Kansas while continuing excessive spending and growing bigger government. – JULIA LYNN

Senators Abrams, Bruce, Pilcher-Cook, Donovan, Masterson, Merrick, Pyle and

Wagle requests the record to show they concur with the "Explanation of Vote" offered by Senator Lynn on **Sub SB 449**.

Sub SB 449 be further amended by motion of Senator V. Schmidt, on page 164, in line 14, by adding \$111,309 to the dollar amount and by adjusting the dollar amount in line 14 accordingly

Sub SB 449 be further amended by motion of Senator Huntington, on page 230, following line 27, by inserting:

"Sec. 122. Except as otherwise provided in this section, during one year after the date of implementation of the managed care system or any managed care oversight, no state agency named in this or any other appropriation act of the 2012 regular session of the legislature shall expend moneys from the state general fund or from any special revenue fund or funds authorized by this or any other appropriation act of the 2012 regular session of the legislature, to provide services: (a) through the home and community based services waiver for individuals with developmental disabilities; (b) through intermediate care facilities, targeted case management or assessment services for individuals with developmental disabilities; or (c) to technology assisted waivers, under any managed care system or any managed care oversight or any function that is determined to be a managed care oversight during fiscal year 2013 and fiscal year 2014: *Provided*, That any community developmental disability organizations or community service providers shall not be required to contract with any managed care organization or participate in any managed care system or any managed care oversight during such year of implementation: *Provided further*, That services during such year of implementation shall be administered and provided consistent with laws and rules and regulations in force on April 1, 2012: *And provided further*, That moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2013 and fiscal year 2014, as authorized by this or any other appropriation act of the 2012 regular session of the legislature to provide services during such year of implementation: (a) through the home and community based services waiver for individuals with developmental disabilities; (b) through intermediate care facilities, targeted case management or assessment services for individuals with developmental disabilities; or (c) to technology assisted waivers, shall be expended only in the same manner as such moneys were expended during fiscal year 2012 pursuant to the developmental disabilities reform act, K.S.A. 39-1801 through 39-1810, and K.S.A. 2011 Supp. 39-1811, and amendments thereto, and the rules and regulations, policies and contracts, in force on April 1, 2012: *Provided, however*, That during fiscal year 2013 and fiscal year 2014, nothing in this section shall prevent any community service provider from voluntarily participating in a pilot program established during such year of implementation.";

And by renumbering sections accordingly

Sub SB 449 be further amended by motion of Senator Hensley, on page 131, in line 13, before the period, by inserting the following:

"*Provided further*, That, if 2012 Senate Substitute for House Bill No. 2200, or any other legislation which increases the state prescribed percentage as defined in K.S.A. 2011 Supp. 72-6433, and amendments thereto, in fiscal year 2013 from 31% to 32%, is not passed by the legislature during the 2012 regular session and enacted into law, then, on July 1, 2012, of the \$1,967,322,680 appropriated for the above agency for the general state aid account, the sum of \$50,000,000 is hereby lapsed";

Also on page 131, in line 17, before the period, by inserting the following:

“: *Provided further*, That, if 2012 Senate Substitute for House Bill No. 2200, or any other legislation which increases the state prescribed percentage as defined in K.S.A. 2011 Supp. 72-6433, and amendments thereto, in fiscal year 2013 from 31% to 32%, is not passed by the legislature during the 2012 regular session and enacted into law, then, on July 1, 2012, of the \$362,212,000 appropriated for the above agency for the supplemental general state aid account, the sum of \$27,000,000 is hereby lapsed”

Sub SB 449 be further amended by motion of Senator King, on page 282, following line 24, by inserting the following:

" Sec. 159. On July 1, 2012, K.S.A. 79-2961 is hereby amended to read as follows: 79-2961. (a) The county clerk shall certify to the county treasurer when budgets are made pursuant to K.S.A. 79-2960 and amendments thereto and tax levies are filed with the county clerk. Prior to crediting the proper amounts under subsection (c) and except as provided in subsection (d), the county treasurer shall divide the amount paid by the state treasurer to the county treasurer among the county and all other taxing subdivisions of the county except school districts and any incorporated city within which any portion of the Fort Riley military reservation is located and which would otherwise be a participant in the Riley county allocation, which comply with the requirements of this act, in the proportion that the product of the last preceding total tangible tax rate of each subdivision, times its equalized tangible assessed valuation for the preceding year, is to the sum of such products of all the tangible tax-levying political subdivisions, except school districts and any incorporated city within which any portion of the Fort Riley military reservation is located and which would otherwise be a participant in the Riley county allocation, exclusive of the levy by the county for any deficiency for state purposes.

(b) ~~No~~ Each year a political subdivision shall be entitled to participate in the distribution of any money appropriated to carry out K.S.A. 79-2960 and amendments thereto and this section ~~unless and until when~~ such political subdivision has adopted and certified a budget for the ensuing year which shows as a separate item the amount of the distribution to one or more tax levy funds of general application within such subdivision except bond and interest funds and has certified a tax levy for each such fund that will produce a sum of money less than the amount which a maximum levy would produce for each such fund, in an amount equal to or in excess of the amount of such distribution. The budget of each political subdivision also shall show that the aggregate levies made by such tangible property tax-levying political subdivisions will produce a sum less than the amount which the aggregate levy would produce in an amount equal to or in excess of the aggregate amount of the budget items of such distribution shown in the aggregate levy that has reduced the aggregate levies made by each such tangible property tax levying political subdivision by an amount equal to the annual amount received by the political subdivision from the local *ad valorem* tax reduction fund.

(c) In crediting the amount that has been divided pursuant to subsection (a) or subsection (d), the county treasurer shall proceed as follows: Upon receipt of the payment from the state treasurer each year, credit the appropriate fund or funds of each political subdivision complying with the provisions of this act with its proportionate share of such payment and the county treasurer shall notify such political subdivision of the amounts so credited. This section and K.S.A. 79-2960 and amendments thereto shall not apply to school districts.

(d) The amount paid by the state treasurer to the county treasurer of each county under subsection (d) of K.S.A. 79-2959 and amendments thereto, shall be divided only among the one or more community colleges or municipal universities, or both, which received amounts under this section from the payment made from the local *ad valorem* tax reduction fund on January 15, 1983. The amount received by each such community college or municipal university under this subsection shall bear the same proportion to the total amount paid to such county under subsection (d) of K.S.A. 79-2959 and amendments thereto, as the amount received by such community college or municipal university under this section from the payment made to such county from the local *ad valorem* tax reduction fund on January 15, 1983, bears to the total amount received by all such community colleges and municipal universities under this section from such payment.";

On page 295, in line 21, following "2012," by inserting "K.S.A. 79-2961 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 7, following the semicolon by inserting "relating to the distribution to political subdivision of the local *ad valorem* tax reduction fund;"; also in line 7, following "amending" by inserting "K.S.A. 79-2961 and" and **Sub SB 449** be passed as amended.

Senators Abrams and V. Schmidt withdrew amendments on **Sub SB 449**.

A motion by Senator Wagle to amend **Sub SB 449** failed and the following amendment was rejected: on page 272, by striking all in lines 33 through 43;

On page 273, by striking all in lines 1 and 2; in 3 by striking all before "reconciled" and inserting "The state treasurer may make estimated payments to the bioscience authority more frequently based on estimates provided by the secretary of revenue and"

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

On roll call, the vote was: Yeas 16; Nays 23; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Donovan, Kelsey, King, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Longbine, Marshall, McGinn, Morris, Owens, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Absent or Not Voting: Steineger.

The motion failed and the amendment was rejected.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **Sub SB 449** was advanced to Final Action and roll call.

Sub SB 449, AN ACT making and concerning appropriations for fiscal years ending June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, for state agencies; authorizing and directing payment of certain claims against the state; authorizing certain transfers, capital improvement projects and fees imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; relating to the distribution to political subdivision of the local *ad valorem* tax reduction fund; amending K.S.A. 79-2961 and amending K.S.A. 2011 Supp. 2-223, 12-5256, 55-193, 72-8814, 74-50,107, 74-99b34, 75-2319, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i,

79-34,156, 79-34,171 and 82a-953a and repealing the existing sections.

On roll call, the vote was: Yeas 34; Nays 5; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Donovan, Masterson, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Steineger.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote in favor of **Sub SB 449**. This budget bill has been amended in a bipartisan manner today in several key areas that have been brought to my attention as being of great concern to many citizens and organizations in the 36th District. This chamber, casting mostly bipartisan votes added in the following funding:

- added funds from the tobacco settlement for the Children's Initiative Fund.
- \$2.5 million for each to reduce the physical disabilities and developmental disabilities waiting lists.
- An increase of \$74 per pupil to K-12 education.
- Funding to add FTEs and increase “under pay” at Larned State Hospital
- \$45 million in local property tax relief.
- Return to the undermarket pay adjustments that were cut-off in last year's budget.

I regret that this budget failed to address the increased funding for expansion of forensic beds at Larned State Hospital but I was assured that this addition would be executed in conference committee. With the additions to the budget, I support **Sub SB 449**. – ALLEN SCHMIDT

On motion of Senator Emler, the Senate adjourned until 10:00 a.m., Thursday, May 3, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

