

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, April 1, 2013, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with forty senators present.
Invocation by Father Don Davidson:

Heavenly Father, being a fool is a matter both of recognition and appreciation. Some who appear foolish accomplish great things, and those with eyes and ears to see the good, appreciate the wisdom in what appears on the surface as not meeting that standard. May we enjoy this day with its tradition of pranks and silliness as a part of the richness of being human, the gift of humor, and the joy of laughter. In your holy name we pray. Amen

The Pledge of Allegiance was led by President Susan Wagle.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2244, HB 2267, HB 2378.**

Education: **HB 2197.**

Ways and Means: **HB 2391, HB 2396, HB 2403.**

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Petersen, Donovan, Faust-Goudeau, Kerschen, McGinn, O'Donnell, V. Schmidt and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1744—

A RESOLUTION congratulating the Wichita South High School women's basketball team on its class 6A state championship.

WHEREAS, The Wichita South High School women's basketball team won the class 6A state title for 2013; and

WHEREAS, This is the first state title the Wichita South High School women's basketball team has won since 1978. The women defeated the Wichita Heights High School women's basketball team with a score of 46-44; and

WHEREAS, Members of this year's Wichita South High School women's basketball team include Kendrian Elliott, Rachala Ross, Brionna Ross, Eledria Franklin, Ericka Mattingly, Ashlynd Horton, Princess Alcaraz, Kirea Rogers, Patriece Dodson, Madison Northcutt, Sydney James, and Kiera Broehl. The team managers were Ogechi Odunze, Dadreona Tramble, Bria Russell, and Felicia Papamie; and

WHEREAS, The team's coach, Antwain Scales, along with assistant coaches, Heidi Dreiling and Wayne Riddle, worked diligently with this year's team, improving the team's skills and ultimately leading them to the 2013 class 6A state championship: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Wichita South High School women's basketball team on its class 6A state championship. These young women have worked hard throughout the season, and this state title is a testament to that hard work; and

Be it further resolved: That the Secretary of the Senate provide 20 enrolled copies of this resolution to Senator Petersen.

Team members were introduced, and the Senators rose for a standing ovation.

On emergency motion of Senator Petersen **SR 1744** was adopted unanimously.

Senators Petersen, Donovan, Faust-Goudeau, Kerschen, McGinn, O'Donnell and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1745—

A RESOLUTION congratulating the Sedgwick County 4-H Shooting Sports Gold Team on its first place finish at the state shooting match.

WHEREAS, The Sedgwick County 4-H Shooting Sports Gold Team won first place at the state shooting match sponsored by the Kansas State Rifle Association and the Jackson and Nemaha Bullmasters 4-H Shooting Program; and

WHEREAS, The Sedgwick County 4-H Shooting Sports Gold Team scored a 2281 out of a possible 2500 while competing against the other 19 teams. This first place finish qualifies the team to attend the Daisy National BB Gun Championship Shooting Match in Rogers, Arkansas, on June 28-30, 2013; and

WHEREAS, Team members were required to shoot 10 bulls-eyes in 4 positions: prone, standing, sitting and kneeling. In addition to shooting, team members took a 50 question test on gun safety and BB gun competition rules; and

WHEREAS, The Sedgwick County team members were Emma Klausmeyer, Ashley Pinkerton, Tessa Simon, Mary Klausmeyer, Olivia Santiago, Madison Frye and Derek Journey; and

WHEREAS, These shooters put in many hours of practice at other 4-H matches across the state. This hard work and dedication was instrumental in winning first place at the state shooting match: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Sedgwick County 4-H Shooting Sports Gold Team on its first place finish at the state shooting match. These young people have displayed an exemplary work ethic that all Kansans can be proud of; and

Be it further resolved: That the Secretary of the Senate be directed to provide 10 enrolled copies of this resolution to Senator Petersen.

Members of the shooting team were introduced, and the Senators rose for a standing ovation.

On emergency motion of Senator Petersen **SR 1745** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** begs leave to submit the following reports:

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

By the Governor:

Member, State Board of Indigent Defense Services: KSA 22-4519
Kevin Smith, reappointed to fill a term expiring on January 15, 2016

Also, submits 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:

Member, Crime Victims Compensation Board: KSA 74-7303
Nan Morgan Porter, reappointed to fill a term expiring on March 15, 2017

CHANGE OF REFERENCE

The President withdrew **HB 2069** from the Committee on **Ways and Means**, and rereferred the bill to the calendar under the heading of General Orders.

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

AFTERNOON SESSION

The Senate, met pursuant to recess, with Vice President Jeff King in the chair.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **HB 2170**.

The House nonconcurrs in Senate amendments to **Sub HB 2024**, requests a conference and has appointed Representatives Kleebe, Suellentrop and Frownfelter as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2033**, requests a conference and has appointed Representatives Siegfried, Brunk and Ruiz as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **S Sub for HB 2052**, requests a conference and has appointed Representatives Siegfried, Brunk and Ruiz as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Sub HB 2105**, requests a conference and has appointed Representatives Kleebe, Suellentrop and Frownfelter as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 1** and has appointed Representatives Rhoades, Suellentrop and Henry as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 16** and has appointed Representatives Rubin, Gonzalez and Finney as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 23** and has appointed Representatives Cassidy, Grosserode and Winn as conferees on the part of the

House.

The House accedes to the request of the Senate for a conference on **SB 63** and has appointed Representatives Schwab, Huebert and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 88** and has appointed Representatives Rhoades, Suellentrop and Henry as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 96** and has appointed Representatives Proehl, Ryckman Sr. and Perry as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 111** and has appointed Representatives Siegfried, Brunk and Ruiz as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 122** and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 124** and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 129** and has appointed Representatives DeGraaf, Kelly and Frownfelter as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 136** and has appointed Representatives Goico, Seiwert and Meier as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 149** and has appointed Representatives Kleeb, Suellentrop and Frownfelter as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 164** and has appointed Representatives Proehl, Ryckman Sr. and Perry as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 171** and has appointed Representatives Cassidy, Grosserode and Winn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 187** and has appointed Representatives Kleeb, Suellentrop and Frownfelter as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 199** and has appointed Representatives Crum, Weber and Ward as conferees on the part of the House.

The House announced the appointment of Rep. Henry to replace Rep. Ballard as a conferee on S Sub for **HB 2143**.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **Sub HB 2207**.

The House nonconcurrs in Senate amendments to **S Sub for Sub HB 2051**, requests a

conference and has appointed Representatives Schwartz, Hoffman and Victors as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2115**, requests a conference and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **Sub Bill for HB 2140**, requests a conference and has appointed Representatives Cassidy, Grosserode and Winn as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2201**, requests a conference and has appointed Representatives Seiwert, Garber and Kuether as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2234**, requests a conference and has appointed Representatives Proehl, Ryckman Sr. and Perry as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2261**, requests a conference and has appointed Representatives Kelley, Cassidy and Trimmer as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2303**, requests a conference and has appointed Representatives Peck, Hildabrand and Grant as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2349**, requests a conference and has appointed Representatives Kelley, Cassidy and Trimmer as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2363**, requests a conference and has appointed Representatives Schwartz, Hoffman and Victors as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2034**, requests a conference and has appointed Representatives Rubin, Gonzalez and Finney as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2218**, requests a conference and has appointed Representatives Rubin, Gonzalez and Finney as conferees on the part of the House.

The House announces the appointment of Rep. Kinzer, Bruchman and Pauls as conferees on **SB 63** to replace Reps. Schwab, Huebert and Sawyer.

MESSAGE FROM THE HOUSE

The following Senate Bills were stricken from the House Calendar by House Rule 1507: **SB 26, SB 41, SB 49, SB 61, SB 64, SB 73, SB 92, SB 100, SB 163, SB 177.**

REPORT ON ENROLLED BILLS

SB 28, SB 51, SB 59, SB 85, SB 216 reported correctly enrolled, properly signed and presented to the Governor on March 29, 2013.

ORIGINAL MOTION

On motion of Senator Lynn, the Senate acceded to the request of the House for a conference on **Sub HB 2024**.

The President appointed Senators Lynn, Wagle and Holland as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2033**.

The President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **S Sub for HB 2034**.

The President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Powell, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2051**.

The President appointed Senators Powell, Kerschen and Francisco as conferees on the part of the Senate.

On motion of Senator Ostmeyer, the Senate acceded to the request of the House for a conference on **S Sub for HB 2052**.

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

On motion of Senator Lynn, the Senate acceded to the request of the House for a conference on **Sub HB 2105**.

The President appointed Senators Lynn, Wagle and Holland as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2115**.

The President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Abrams, the Senate acceded to the request of the House for a conference on **Sub Bill for HB 2140**.

The President appointed Senators Abrams, Arpke and Hensley as conferees on the part of the Senate.

On motion of Senator Apple, the Senate acceded to the request of the House for a conference on **HB 2201**.

The President appointed Senators Apple, Knox and Francisco as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2218**.

The President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Masterson, the Senate acceded to the request of the House for a conference on **HB 2234**.

The President appointed Senators Masterson, Denning and Kelly as conferees on the part of the Senate.

On motion of Senator Abrams, the Senate acceded to the request of the House for a conference on **HB 2261**.

The President appointed Senators Abrams, Arpke and Hensley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a

conference on **HB 2303**.

The President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Abrams, the Senate acceded to the request of the House for a conference on **HB 2349**.

The President appointed Senators Abrams, Arpke and Hensley as conferees on the part of the Senate.

On motion of Senator Powell, the Senate acceded to the request of the House for a conference on **HB 2363**.

The President appointed Senators Powell, Kerschen and Francisco as conferees on the part of the Senate.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Ostmeyer as a member of the Conference Committee on **HB 2033** to replace Senator King.

The President announced the appointment of Senator Emler as a member of the Conference Committee on **HB 2033** to replace Senator Smith.

The President announced the appointment of Senator Holland as a member of the Conference Committee on **HB 2033** to replace Senator Haley.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2167** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2167," as follows:

"Senate Substitute for HOUSE BILL NO. 2167

By Committee on Federal and State Affairs

"AN ACT concerning fireworks; amending K.S.A. 2012 Supp. 31-505 and repealing the existing section; also repealing K.S.A. 31-155 and 31-156";

And the substitute bill be passed.

Committee on **Ways and Means** recommends **HB 2142** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 74-3241 is hereby amended to read as follows: 74-3241. (a) On July 1, 1975, persons who, prior to ~~said such~~ date, had qualified for and been designated as state scholars pursuant to the provisions of article 68 of chapter 72 of the Kansas Statutes Annotated, ~~or had been awarded tuition grants pursuant to the provisions of article 61 of chapter 72 of the Kansas Statutes Annotated, or had received a loan from an eligible lending institution guaranteed under the provisions of article 74 of chapter 72 of the Kansas Statutes Annotated and amendments thereto,~~ shall retain all benefits or rights which had accrued to or vested in such persons prior to July 1, 1975.

(b) Persons or institutions participating in grant programs or having been allocated funds under any of the federal higher education acts described in K.S.A. 72-6210, prior to its repeal, shall retain all benefits or rights which had accrued to or vested in such persons or institutions unless revised or nullified in accordance with law.

(c) All applications made pursuant to any of the programs or acts referred to in this section submitted to the state education commission prior to the effective date of this order shall continue in effect and shall be deemed to have been made or submitted to the state board of regents and shall be deemed sufficient for the purpose thereof. Any

application for grants of federal funds included with or in a state plan or pursuant to any federal legislation submitted to any federal agency by the state education commission prior to the effective date of this order shall continue in effect and shall be deemed to have been made or submitted by the state board of regents subject to revision or nullification in accordance with law.";

And by renumbering sections accordingly;

Also on page 1, in line 6, after "K.S.A." by inserting "72-7401, 72-7402, 72-7403, 72-7404, 72-7405, 72-7406, 72-7407,"; in line 7, by striking "and" and inserting a comma; also in line 7, after "72-8175" by inserting ", 74-3233, 74-3235, 74-3236, 74-3237, 74-3238, 74-3239, 74-3240 and 74-3241";

On page 1, in the title, in line 1, by striking "repealing K.S.A." and inserting "concerning education; relating to land transfers; concerning postsecondary education student loans and tuition grants; amending K.S.A. 74-3241 and repealing the existing section; also repealing K.S.A. 72-7401, 72-7402, 72-7403, 72-7404, 72-7405, 72-7406, 72-7407,"; in line 2, by striking "and" and inserting a comma; also in line 2, by striking the semicolon; in line 3, by striking all before the period and inserting ", 74-3233, 74-3235, 74-3236, 74-3237, 74-3238, 74-3239 and 74-3240"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Longbine the following report was adopted:

Recommended: **HB 2253** be passed.

HB 2253 be amended by motion of Senator Francisco, to amend **HB 2253**: in line 20, by striking all after "(b)"; by striking all in lines 21 through 33; in line 34, by striking "(2)";

On page 6, in line 15, by striking "1999" and inserting "2004"; and the amendment was adopted.

A motion by Senator Haley to amend **HB 2253** failed and the following amendment was rejected: on page 5, following line 6, by inserting:

"New Sec. 10. The provisions of K.S.A. 65-6701 through 65-6725, and amendments thereto, shall not apply to an abortion if the pregnancy is the result of an act of rape, aggravated indecent liberties with a child or incest, as those crimes are defined under the Kansas criminal code.";

And by renumbering remaining sections accordingly

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

On roll call, the vote was: Yeas 9; Nays 28; Present and Passing 2; Absent or Not Voting 1.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, V. Schmidt.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson,

Wagle.

Present and Passing: Emler, Wolf.

Absent or Not Voting: Donovan.

EXPLANATION OF VOTE

Mr. Chair: The amendment that was defeated by this roll call voted proposed that the provisions of this bill shall not apply to an abortion if the pregnancy is the result of an act of rape, aggravated indecent liberties with a child or incest, as those crimes are defined under the Kansas criminal code. That is why I voted for the amendment on **HB 2253**. It is a sad day in the Senate to watch our colleagues vote against these exceptions.

—DAVID HALEY

Senator Hensley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Haley on **HB 2253**.

Mr. Chair: I vote no on the amendment. Current Kansas law and **HB 2253** allows an abortion up to 22 weeks of a pregnancy and does not prevent a woman who has been raped or is a victim of incest from having an abortion. **HB 2253** does prevent public taxpayer funds from being used to perform an abortion. This bill respects the rights of Kansas taxpayers who are morally opposed to not be involved in the abortion procedure through the use of public funds.—SUSAN WAGLE

A motion by Senator Francisco to amend **HB 2253** failed and the following amendment was rejected: on page 5, following line 6, by inserting:

"Sec. 10. K.S.A. 2012 Supp. 40-2,190 is hereby amended to read as follows: 40-2,190. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which is delivered, issued for delivery, amended or renewed on or after July 1, 2011, shall exclude coverage for elective abortions, unless the procedure is necessary to preserve the life of the mother or because the pregnancy is the result of an act of rape. Coverage for abortions may be obtained through an optional rider for which an additional premium is paid. The premium for the optional rider shall be calculated so that it fully covers the estimated cost of covering elective abortions per enrollee as determined on an average actuarial basis.

(b) No health insurance exchange established within this state or any health insurance exchange administered by the federal government or its agencies within this state shall offer health insurance contracts, plans, or policies that provide coverage for elective abortions, nor shall any health insurance exchange operating within this state offer coverage for elective abortions through the purchase of an optional rider.

(c) For the purposes of this section:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child and which causes the premature termination of the pregnancy.

(2) "Elective" means an abortion for any reason other than to prevent the death of

the mother upon whom the abortion is performed; provided, that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct which will result in her death.

(d) The provisions of this section shall be effective from and after July 1, 2011.";

And by renumbering sections accordingly;

On page 72, in line 27, after "Supp." by inserting "40-2,190,";

On page 1, in the title, in line 4, after "Supp." by inserting "40-2,190,"

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

On roll call, the vote was: Yeas 8; Nays 28; Present and Passing 3; Absent or Not Voting 1.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Present and Passing: Emler, V. Schmidt, Wolf.

Absent or Not Voting: Donovan.

A motion by Senator Pettey to amend **HB 2253** failed and the following amendment was rejected: on page 11, in line 35, by striking all after "including"; in line 36, by striking "cancer and";

On page 17, in line 10, by striking all before "risks"

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

On roll call, the vote was: Yeas 10; Nays 28; Present and Passing 2; Absent or Not Voting 0.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Present and Passing: Emler, Longbine.

A motion by Senator Francisco to amend **HB 2253** failed and the following amendment was rejected: on page 3, in line 18, by striking the first "or" and inserting "and"; in line 21, after "spouses" by inserting "or domestic partners"; in line 26, after "spouses" by inserting "or domestic partners"; in line 35, after "spouses" by inserting "or domestic partners";

On page 4, in line 17, after "spouses" by inserting "or domestic partners"

A motion by Senator Francisco to amend **HB 2253** failed and the following amendment was rejected: on page 28, in line 17, after "purposes" by inserting ", except that this subsection shall not apply to expenses paid for an abortion if the woman receiving an abortion was a victim of rape, as the term is defined in the Kansas criminal code, which resulted in the pregnancy for which the abortion is obtained, or if the abortion is necessary to preserve the life of the woman"

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

On roll call, the vote was: Yeas 8; Nays 28; Present and Passing 3; Absent or Not Voting 1.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Present and Passing: Emler, V. Schmidt, Wolf.

Absent or Not Voting: Holmes.

EXPLANATION OF VOTE

Mr. Chair: I vote "aye" on this amendment to **HB 2253**. During the discussion of an earlier amendment that would have added an exception to the prohibition for insurance policies, plans, contracts, etc., to exclude coverage for abortions when the pregnancy is the result of an act of rape, the comment was made that current exception that is granted for those insurance policies when the procedure is necessary to preserve the life of the mother is one that most Kansans agree with. If that is the case, it should be appropriate to allow Kansas taxpayers to deduct expenses for medical procedures necessary to preserve the live of a woman if they have been claimed as an itemized deduction for federal income tax purposes. MR. Chair, we can and therefore should, show compassion to women who have had medical emergencies in our tax laws.—MARCI FRANCISCO

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Francisco on **HB 2253**.

A motion by Senator Haley to amend **HB 2253** failed and the following amendment was rejected: on page 2, following line 12, by inserting:

"(e) Nothing in sections 1 through 8, and amendments thereto, shall be construed as creating a cause of action against a woman for using birth control, including, but not limited to, birth control pills or injections and intrauterine devices."

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

On roll call, the vote was: Yeas 8; Nays 27; Present and Passing 5; Absent or Not Voting 0.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Present and Passing: Emler, Longbine, McGinn, V. Schmidt, Wolf.

Senator Haley moved **HB 2253** be rereferred to the Committee on Public Health and Welfare. The motion failed.

A motion by Senator Haley to send **HB 2253** back to the committee failed and the motion was rejected.

HB 2060 be amended by the adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Pettey to amend **HB 2060** failed and the following amendment was rejected: on page 1, by striking all in lines 16 through 28;

On page 5, by striking all in lines 11 through 43;

On page 6, by striking all in lines 1 through 27;

And by renumbering sections accordingly;

Also on page 6, by striking all in lines 30 and 31;

On page 1, in the title, in line 2, by striking "earned"; in line 3, by striking all before "amending"; in line 4, by striking "79-32,205,"; also in line 4, by striking ", 79-4508 and 79-4509"

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

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

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, McGinn, O'Donnell, Petersen, Pettey, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

A motion by Senator Holland to amend **HB 2060** failed and the following amendment was rejected: on page 1, by striking all in lines 16 through 28;

And by renumbering sections accordingly;

On page 6, in line 30, by striking "79-32,205,";

On page 1, in the title, in line 2, by striking "earned"; in line 3, by striking all before "amending"; in line 4, by striking "79-32,205,"

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

On roll call, the vote was: Yeas 8; Nays 30; Present and Passing 2; Absent or Not Voting 0.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Present and Passing: O'Donnell, Petersen.

A motion by Senator Holland to amend **HB 2060** failed and the following amendment was rejected: on page 1, following line 28, by inserting:

"Sec. 3. On July 1, 2013, K.S.A. 2012 Supp. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own or rent their homestead; (b) certain persons who have a disability, who own or rent their homestead; and (c) certain persons other than persons included under the provisions of (a) or (b) who have low incomes and dependent children and own or rent their homestead.";

On page 2, in line 24, following "thereof," by inserting "whether"; also in line 24, by striking "and" and inserting "or rented, which is";

On page 4, in line 15, following "work." by inserting "With respect to any individual,"; in line 16, by striking "(with respect to any individual)"; following line 39, by inserting:

"(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arm's length and that the gross rent charge was excessive, the director may adjust the gross rent to a

reasonable amount for the purposes of the claim.

(k) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2013 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.";

On page 6, in line 25, following "accrued" by inserting "or rent constituting property tax accrued, or the sum of both,"; following line 27, by inserting:

"Sec. 8. On July 1, 2013, K.S.A. 2012 Supp. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and size and nature of property claimed as the homestead. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (g) of K.S.A. 79-4502, and amendments thereto.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the division, in support of a claim, the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant. Upon request by the division, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is based wholly or partly upon homestead rental at some time during the calendar year, shall supply to the division, in support of a claim, a statement prescribed by the director certifying the amount of gross rent paid and that ad valorem property taxes were levied in full for that year on the property, all or a part of which was rented by the claimant. When such claimant reports household income that is 150% or less of the homestead rental amount and such claimant has failed to provide any documentation or information requested by the division to verify such household income in support of a claim as required pursuant to subsection (a), within 30 days of such request, such homestead property tax refund claim shall be denied.

(d) The information required to be furnished under subsection (b) or (c) shall be in addition to that required under subsection (a).

Sec. 9. On July 1, 2013, K.S.A. 2012 Supp. 79-4522 is hereby amended to read as follows: 79-4522. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds \$350,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and supplemental to the homestead property tax refund act.";

And by renumbering sections accordingly;

Also on page 6, in line 30, following "79-32,205," by inserting "79-4501,"; also in line 30, by striking "and" and inserting a comma; in line 31, following "79-4509" by inserting ", 79-4511 and 79-4522";

On page 1, in the title, in line 2, following "persons;" by inserting "renters;"; in line 4, following "79-32,205," by inserting "79-4501," also in line 4, by striking the first "and" and inserting a comma; also in line 4, following "79-4509" by inserting ", 79-4511 and 79-4522"

A motion by Senator Francisco to amend **HB 2060** failed and the following amendment was rejected: on page 2, in line 24, after "thereof," by inserting "whether"; also in line 24, by striking "and" and inserting "or rented, which is";

On page 4, following line 39, by inserting:

"(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arm's length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purpose of the claim.

(k) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2013 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.";

On page 6, in line 24, before "In" by inserting "(a)"; in line 25, by striking "\$1,200" and inserting "\$1,000"; in line 27, by striking "\$1,200" and inserting "\$1,000"; following line 27, by inserting:

"(b) In the event rent constituting property tax accrued exceeds \$700 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been \$700.

Sec. 7. On July 1, 2013, K.S.A. 2012 Supp. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own or rent their homestead; (b) certain persons who have a disability, who own or rent their homestead; and (c) certain persons other than persons included under the provisions of (a) or (b) who have low incomes and dependent children and own or rent their homestead.

Sec. 8. On July 1, 2013, K.S.A. 2012 Supp. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and size and nature of property claimed as the homestead. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (g) of K.S.A. 79-4502, and

amendments thereto.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the division, in support of a claim, the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant. Upon request by the division, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is based wholly or partly upon homestead rental at some time during the calendar year, shall supply to the division, in support of a claim, a statement prescribed by the director certifying the amount of gross rent paid and that ad valorem property taxes were levied in full for that year on the property, all or a part of which was rented by the claimant. When such claimant reports household income that is 150% or less of the homestead rental amount and such claimant has failed to provide any documentation or information requested by the division to verify such household income in support of a claim as required pursuant to subsection (a), within 30 days of such request, such homestead property tax refund claim shall be denied.

(d) The information required to be furnished under subsection (b) or (c) shall be in addition to that required under subsection (a).

Sec. 9. On July 1, 2013, K.S.A. 2012 Supp. 79-4522 is hereby amended to read as follows: 79-4522. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds ~~\$350,000~~ \$250,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and supplemental to the homestead property tax refund act.";

And by renumbering sections accordingly;

Also on page 6, in line 30, after "79-32,205," by inserting "79-4501,,"; also in line 30, by striking "and" and inserting a comma; in line 31, after "79-4509" by inserting ", 79-4511 and 79-4522";

On page 1, in the title, in line 4, after "79-32,205," by inserting "79-4501,,"; in line 4, by striking "and 79-4509" and inserting ", 79-4509, 79-4511 and 79-4522"

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

On roll call, the vote was: Yeas 9; Nays 27; Present and Passing 3; Absent or Not Voting 1.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Petersen, Pettey.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Present and Passing: McGinn, V. Schmidt, Wolf.

Absent or Not Voting: Lynn.

EXPLANATION OF VOTE

Mr. Chair: This amendment is the best of both worlds. It eliminates the reduction in the Kansas Earned Income Tax Credit while keeping the increase in refunds for those who qualify for the Kansas Homestead Refund. It represents tax policy that is really fair while taking care of those who benefit from the EITC and those who benefit from the homestead tax refund. I believe we should help both.—ANTHONY HENSLEY

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Hensley on **HB 2060**

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks.*

DIANE MINEAR, *Secretary of the Senate.*

