

Journal of the Senate

SIXTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 22, 2007—10:00 a.m.

As provided by **HCR 5024**, the Sine Die Session of the regular 2007 Kansas Senate was called to order by President Morris.

The roll was called with thirty-four senators present.

Senators Allen, Bruce, Donovan, Kelly, McGinn and Palmer were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Many people may assume
Our work is over now,
And we will have a lot more time
Than the session would allow.

But many people do not know
About interim committees
Which many of us must attend
In Topeka city.

And many of us have full time jobs
Which demand a lot of time;
During the session work piles up,
To neglect it is a crime.

And there are family matters
Which require so much attention;
And we get constituent calls
Too numerous to mention.

We have no problem keeping busy,
Often more than we can bear;
So give us energy and strength
Is our daily prayer.

I pray in Jesus' Name.

AMEN

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1887—

A RESOLUTION proclaiming and celebrating the sesquicentennial of Chetopa, Kansas.

WHEREAS, Chetopa, Kansas, was founded on April 18, 1857 and will celebrate its 150th anniversary in conjunction with the annual Spring Fling on May 12, 2007; and

WHEREAS, In early 1857 a society known as the Powhattan Agricultural Association was formed at Powhattan, Ohio, to establish a colony somewhere in southeastern Kansas.

A committee of three, led by association president Dr. George Lisle, left Ohio April 1, 1857, with instructions to visit the Neosho Valley and reached the location where Chetopa now stands on the 17th day of April. The beauty and fertility of the country was apparent, and the party was satisfied that no better place could be found and concluded to select this for the location of the colony; and

WHEREAS, Chetopa is located in southeast Labette County, an area primarily settled by Union veterans following the Osage Treaty of 1865, and was named after the Osage Chief Chetopah. The “h” was dropped in 1879. Being situated on the Neosho River, Chetopa is also known throughout the state of Kansas as the Catfish Capital; and

WHEREAS, Chetopa survived many acts of brutality and devastation during the Civil War Era, including the burning of forty houses in and around the city. After the war ended and peace was restored, those who had left their homes, followed by many others, returned to Chetopa to continue the work of improvement and settlement; and

WHEREAS, The first celebration in Chetopa was held on July 4, 1867, and the patriotism of its citizens brings them together on that date almost every year. Chetopa also celebrates annually its rich heritage in the cultivation of pecans by hosting the Pecan Festival on the third Saturday each November; and

WHEREAS, Chetopa’s first brick buildings were erected in 1870, the same year that John Torrance located his foundry in Chetopa. Bringing an element of trade, this addition was valuable to the development of business in the town. The *Advance* newspaper moved to Chetopa in January 1869, and the First National Bank opened in December 1871; and

WHEREAS, Chetopa, throughout its 150 years, has endured droughts and enjoyed prosperity, established well-attended, active, and serving churches, produced accomplished graduates in its outstanding schools, developed successful industries, stores, and banks, and maintained service organizations that work together to strengthen the community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby proclaim and celebrate April 18, 2007, as the sesquicentennial anniversary of Chetopa, Kansas; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Dwayne Umbarger for presentation to Chetopa, Kansas.

On emergency motion of Senator Umbarger **SR 1887** was adopted unanimously.

Senator Umbarger introduced Pat Frazier and Jack Wilkinson and senators joined him in welcoming them with a standing ovation.

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

SENATE RESOLUTION No. 1888—

A RESOLUTION commemorating May 29, 2007, as the 90th anniversary of the birth of President John Fitzgerald Kennedy.

WHEREAS, John Fitzgerald Kennedy was born on May 29, 1917, in Brookline, Massachusetts, the second son of Joseph P. Kennedy and Rose Fitzgerald Kennedy, and was taught by his parents at an early age that his family’s wealth brought a responsibility of helping those less fortunate; and

WHEREAS, John Fitzgerald Kennedy, often referred to by his initials, JFK, was elected President of the United States in 1960, the first and to date only Roman Catholic to be elected President. At age 43, JFK was the youngest person ever elected President, and the first person born in the 20th century to have served as President; and

WHEREAS, JFK was sworn in as the 35th President on January 20, 1961. In his inaugural address he spoke of the need for all Americans to be active citizens and he famously remarked, “Ask not what your country can do for you, ask what you can do for your country.” He also asked the nations of the world to join together to fight what he called the “common enemies of man: tyranny, poverty, disease and war itself;” and

WHEREAS, During the 1960 campaign, JFK and his opponent Richard Nixon appeared in the first televised presidential debates. JFK became the first “television” President, addressing the nation with many speeches and frequent news conferences which aired on the major television networks; and

WHEREAS, JFK's domestic program was known as the "New Frontier," which ambitiously promised federal funding for education; medical care for the elderly; government intervention to halt the recession; income tax reform; and an end to racial discrimination. He supported racial integration and civil rights, sending U.S. Marshals to integrate southern universities and proposing what would become the Civil Rights Act of 1964; and

WHEREAS, JFK's most famous legacies include the Alliance of Progress and Peace Corps, which helped underdeveloped nations in areas such as education, farming, health care and construction. Troubled by the long-term dangers of nuclear weapons proliferation, JFK pushed for the adoption of the Nuclear Test Ban Treaty. He established the space program and was the first to set a goal for landing a man on the Moon; and

WHEREAS, When U-2 spy planes took photographs of a Soviet missile site under construction in Cuba in 1962, JFK imposed a naval blockade of all ships in Cuban waters. The Cuban Missile Crisis, which brought the world closer to nuclear war than at any point before or since, was successfully averted; and

WHEREAS, JFK and his wife Jacqueline were both extraordinarily popular and along with their two young children, Caroline and John, Jr., brought new life and vigor to the White House. The Kennedys made it a place to celebrate American history, culture and achievement by inviting artists, writers, scientists, poets, musicians, actors and Nobel Prize winners to visit. Jacqueline also restored all the rooms in the White House and the charisma of JFK and his family led to the figurative label of "Camelot" for his administration; and

WHEREAS, On November 22, 1963, in Dallas, Texas, President Kennedy was assassinated and pronounced dead at 1:00 p.m. CST — such a tragic moment in history that most people still remember where they were and what they were doing when they received the news. His death caused enormous sadness and grief among Americans, and millions watched his funeral on television; and

WHEREAS, JFK stands out in people's memories for his leadership, personality, wit, charm and accomplishments. He is now regarded as an icon of American hope and aspirations to every new generation of Americans: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate May 29, 2007, as the 90th anniversary of the birth of President John Fitzgerald Kennedy; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the John F. Kennedy Library and Museum, c/o Thomas J. Putnam, Director, Columbia Point, Boston, Massachusetts 02125.

On emergency motion of Senator Hensley **SR 1888** was adopted unanimously.

REPORT ON ENGROSSED BILLS

H Sub for SB 357 reported correctly engrossed May 3, 2007.

REPORT ON ENROLLED BILLS

SB 30; H Sub for SB 35; SB 68, SB 138, S 166, SB 204; H Sub for SB 215; SB 351 reported correctly enrolled, properly signed and presented to the Governor on May 4, 2007.

H Sub for SB 14, H Sub for SB 357 reported correctly enrolled, properly signed and presented to the Governor on May 11, 2007.

SR 1885, SR 1886 reported correctly enrolled, properly signed and presented to the Secretary of the Senate May 4, 2007.

MESSAGE FROM THE GOVERNOR

H Sub for SB 31; SB 52, SB 324 approved on May 9, 2007.

H Sub for SB 11 approved on May 10, 2007.

SB 30; H Sub for SB 35; SB 68, SB 138, SB 204; H Sub for Sub SB 215; SB 351 approved on May 11, 2007.

H Sub for SB 14; SB 166 approved on May 14, 2007.

MAY 22, 2007

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April 30, 2007

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order 07-05 for your information.

KATHLEEN SEBELIUS
Governor

The President announced Executive Order 07-05, incorporating by reference Executive Orders 98-5, 00-06, 02-05, 03-06, 05-01 and 06-02 and continuing the Governor's Military Council ("Council") until May 1, 2009, unless rescinded earlier or lengthened by executive order, is on file in the office of the Secretary of the Senate and available for review at any time.

May 8, 2007

Message to the Senate of the State of Kansas:

Enclosed herewith are Executive Orders 07-06, 07-07 and 07-08 for your information.

KATHLEEN SEBELIUS
Governor

The President announced Executive Order 07-06, authorizing the State Bank Commissioner to take whatever steps are necessary to facilitate access to banking services for the citizens of Kiowa County; Executive Order 07-07, suspending the provisions of the regulatory statutes, rules and/or regulations prescribing the requirement for fee assessments to obtain duplicate driver's licenses, duplicate vehicle titles and registrations, other duplicate vehicle documentation and duplicate marriage and birth certificates for victims of the May 5, 2007 natural disaster; Executive Order 07-08, ordering State of Kansas employees called by the American Red Cross who are certified to serve in relief efforts resulting from the above-mentioned severe weather, under provisions of K.S.A. 75-5548 and amendments thereto, is on file in the office of the Secretary of the Senate and available for review at any time.

May 9, 2007

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order 07-09 for your information.

KATHLEEN SEBELIUS
Governor

The President announced Executive Order 07-09, declaring because there is a state of emergency existing in the counties of Kiowa, Barton, Stafford, Pratt, Edwards and Phillips, as result of severe weather, it is necessary to assist and expedite all efforts of restoration of services and relief, is on file in the office of the Secretary of the Senate and available for review at any time.

MESSAGE FROM THE GOVERNOR

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return House Sub for S 357 with my signature approving the bill, except for the items enumerated below.

Proviso regarding Kansas Department of Health and Environment

Section 65 has been line item vetoed in its entirety.

I believe all Kansans support efforts to reduce the number of abortions, and those efforts are underway through a variety of support services, including expanded access to health care and the promotion of adoption and financial support for caregivers. All Kansans also want our laws upheld, including laws protecting the privacy of our personal medical records.

The questions required by this proviso are open-ended and request detailed information on a patient's medical condition. Rather than collecting sound data that is able to be properly analyzed and protected, this proviso is likely to have little substantive effect, yet opens up patients' private medical information to public viewing. This measure runs counter to Kansans' strong belief in the importance of medical privacy, and therefore I veto this proviso.

Department of Administration

Section 8(g) has been line item vetoed in its entirety.

Printing the state employee directory wastes taxpayer dollars and natural resources, which is why it was eliminated as part of my administration's efficiency efforts five years ago. Printed directories are out-of-date almost the instant they are published and it makes much more sense to use a searchable electronic directory instead. In addition to being much easier to keep up-to-date, the online directory saves taxpayers money and conserves paper.

Operating state government more efficiently is the reason the Legislature passed other provisos that require fewer budget books be printed — another administration savings effort — so it makes little sense to then increase printing costs in another area.

That's why I veto this proviso, just as I have done the two prior times the Legislature has sent such provisos to me, and I direct interested parties to visit <http://www.da.ks.gov/phonebook/> if they are looking for a phone number.

University of Kansas Medical Center

Section 26(b) has been line item vetoed in its entirety.

Currently, the University of Kansas Medical Center and the KU Hospital Authority are negotiating an affiliation agreement that incorporates new guiding principles for the working relationship between the two organizations for the next decade. Those negotiations are proceeding appropriately, yet the proposed proviso attempts to micromanage those discussions, preventing them from thoroughly addressing all of the issues involved, by imposing an artificial deadline for completion of an agreement.

In addition to interfering in what have so far been productive discussions, the proviso prohibits the KU Medical Center from entering into any other affiliations until this agreement with the KU Hospital is reached. This would have significant unintended consequences since the KU Medical Center currently has roughly 1,000 affiliation agreements that must be renewed regularly. These affiliation agreements are made with every health provider that hosts a medical resident or a student from the medical, nursing or allied health programs.

Imposing these restrictions would unnecessarily interfere in ongoing negotiations with the KU Hospital and prevent the KU Medical Center from accomplishing its core mission of educating its students, which is why I veto this proviso.

Date: May 21, 2007

Signed: Kathleen Sebelius, Governor

MESSAGE FROM THE GOVERNOR

Since our founding, times of incredible difficulty have always been met by Kansans, standing together, ready to reach for the stars. Now, a new challenge is upon us.

Earlier this month, a series of storms swept through our state, taking lives, destroying homes and threatening livelihoods. As we know, the greatest damage occurred in Greensburg and surrounding areas in Kiowa County.

The destruction of so many homes and the entire business district presents unimaginable challenges to the people of Greensburg as they strive to rebuild. While the recovery effort must be guided by local residents, the state can and should provide assistance to them as they create a new and even more vibrant community.

I have issued a series of executive orders to provide relief to the affected areas, but we must also take action to ensure the state can respond to Greensburg's needs during the period between today and the start of the 2008 Legislative Session.

I thank all legislators for returning to Topeka to put in place the necessary authority to provide this relief, and thank the leadership of both chambers for their cooperation in ensuring our state can provide the proper assistance to Greensburg as it rebuilds.

Signed Kathleen Sebelius

Approved May 21, 2007

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2540** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2540," as follows:

"SENATE Substitute for HOUSE BILL No. 2540

By Committee on Ways and Means

"AN ACT concerning disaster emergencies; relating to certain severe weather-related disasters and the state emergency fund; establishing a business restoration assistance program for certain counties; providing certain sales tax exemptions; prescribing certain powers, duties and functions; amending K.S.A. 2006 Supp. 75-3712 and repealing the existing section.";

and the substitute bill be passed.

On motion of Senator D. Schmidt, the Senate recessed until 11:00 p.m.

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

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **S Sub for HB 2540**.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **S Sub for HB 2540** was advanced to Final Action, subject to amendment, debate and roll call.

S Sub for HB 2540, An act concerning disaster emergencies; relating to certain severe weather-related disasters and the state emergency fund; establishing a business restoration assistance program for certain counties; providing certain sales tax exemptions; prescribing certain powers, duties and functions; amending K.S.A. 2006 Supp. 75-3712 and repealing the existing section.

S Sub for HB 2540 be amended by the adoption of the committee report recommending a substitute bill, be amended by motion of Senator Teichman on page 3 of the typed version, line 7, by striking "Kiowa" and inserting "the"

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Lee, Lynn, Morris, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen, Bruce, Donovan, Kelly, McGinn, Palmer.

The substitute bill passed, as amended.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5025**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5025 was thereupon introduced and read by title.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **HCR 5025** was advanced to Final Action, subject to amendment, debate and roll call.

HCR 5025, A concurrent resolution ratifying the State of Disaster Emergency declared on May 4, 2007, in a proclamation issued by Governor Sebelius and providing for the continuation thereof for Kiowa County until October 31, 2007.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Lee, Lynn, Morris, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen, Bruce, Donovan, Kelly, McGinn, Palmer.

The resolution was adopted.

ACTION ON VETO MESSAGE

President Morris announced the time had arrived for reconsideration of **H Sub for SB 357**.

Senator Journey moved that notwithstanding the Governor's veto, the Senate reconsider the line item vetoed in Section 65 of **H Sub for SB 357** which reads as follows:

Proviso regarding Kansas Department of Health and Environment

Section 65 has been line item vetoed in its entirety.

Sec. 65. (a) On and after the effective date of this act, no expenditures shall be made from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2008 for the department of health and environment — division of health as authorized by chapter 142 or chapter 216 of the 2006 Session Laws of Kansas, by 2007 House Bill No. 2368, or by this or other appropriation act of the 2007 regular session of the legislature, except upon the approval of the director of the budget acting after ascertaining that the department of health and environment has established and implemented procedures requiring each report by a physician pursuant to subsection (b)(4) of K.S.A. 65-6703, and amendments thereto, to specify the diagnosis and either the condition necessitating abortion to preserve the life of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the pregnant woman which continuation of the pregnancy would cause.

(b) The terms used in this section shall have the meanings provided in K.S.A. 65-6701, and amendments thereto.

On roll call, the vote was: Yeas 19, Nays 10, Present and Passing 4, Absent or Not Voting 7.

Yeas: Apple, Barone, Brownlee, Gilstrap, Haley, Huelskamp, Jordan, Journey, Lynn, Morris, Ostmeyer, Petersen, Pine, Pyle, Schmidt D, Taddiken, Umbarger, Wagle, Wilson.

Nays: Brungardt, Francisco, Goodwin, Hensley, Lee, Reitz, Schmidt V, Schodorf, Steineger, Vratil.

Present and Passing: Betts, Emler, Teichman, Wysong.

Absent or Not Voting: Allen, Barnett, Bruce, Donovan, Kelly, McGinn, Palmer.

A two-thirds constitutional majority not having voted in favor of overriding the Governor's line item veto, the motion did not prevail and the line item did not pass.

VETO SUSTAINED

Department of Administration

Section 8(g) has been line item vetoed in its entirety.

(g) In addition to the other purposes for which expenditures may be made by the department of administration from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2007 as authorized by chapter 142 or chapter 216 of the 2006 Session Laws of Kansas or by 2007 House Bill No. 2368, or by this or other appropriation act of the 2007 regular session of the legislature, expenditures shall be made by the department of administration from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2007 for the purpose of printing a state employee telephone directory once every two years, beginning in the fiscal year ending June 30, 2009, and commencing after the November 2008 election.

There being no motion to reconsider Section 8(g), the President ruled the veto was sustained.

University of Kansas Medical Center

Section 26(b) has been line item vetoed in its entirety.

(b) In addition to the other purposes for which expenditures may be made by the university of Kansas medical center from the moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 or fiscal year 2008 as authorized by chapter 142 or chapter 216 of the 2006 Session Laws of Kansas, by 2007 House Bill No. 2368, or by this or other appropriation act of the 2007 regular session of the legislature, expenditures shall be made by the university of Kansas medical center from the moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 or fiscal year 2008 to enter into a new operating agreement with the university of Kansas hospital authority for the operations of the university of Kansas hospital: *Provided*, That, on and after the effective date of this act, no expenditures shall be made by the university of Kansas medical center from any moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 or fiscal year 2008 to enter into any affiliation agreement with any other entity unless and until after the date upon which the university of Kansas medical center has entered into a new operating agreement with the university of Kansas hospital authority for the operation of the university of Kansas hospital: *Provided further*, That the university of Kansas medical center shall exercise all due diligence and shall undertake discussions and negotiations with the university of Kansas hospital authority in the most expeditious manner practicable in order to enter into a new operating agreement with the university of Kansas hospital authority for the operation of the university of Kansas hospital: *And provided further*, That the university of Kansas hospital authority shall exercise all due diligence and shall undertake discussions and negotiations with the university of Kansas medical center in the most expeditious manner practicable in order to enter into a new operating agreement with the university of Kansas medical center for the operation of the university of Kansas hospital: *And provided further*, That the university of Kansas medical center shall not enter into any affiliation agreement with any entity unless and until the university of Kansas medical center has entered into a new operating agreement with the university of Kansas hospital authority for the operation of the university of Kansas hospital.

There being no motion to reconsider Section 26(b), the President ruled the veto was sustained.

There being no further business to be considered, Senator D. Schmidt moved, as provided in **HCR 5024**, the Senate adjourn Sine Die. The motion prevailed.

President Morris thereupon announced: "By virtue of the authority vested in me as President of the Senate, I now declare the 2007 Session of the Kansas Senate adjourned Sine Die."

MESSAGE FROM THE HOUSE

Announcing the House concurs in Senate amendments to **Senate Substitute for HB 2540**.

REPORT ON ENROLLED BILLS

SR 1887, SR 1888 reported correctly enrolled, properly signed and presented to the Secretary of the Senate May 24, 2007.

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

PAT SAVILLE, *Secretary of the Senate*.

