

## Other Viewpoints

### Procrastination impacts budget

Does procrastination pay when crafting a historically tough state budget? Kansans will find out when the Legislature reconvenes in Topeka late this month for the wrap-up session. Legislators should pack their bags for more than the traditional three to five days.

Daunted by a \$470 million-plus shortfall, lawmakers postponed the number crunching last week until they have the benefit of a new revenue forecast coming April 16.

But they also made important decisions, including some that will have a direct and positive impact on Kansans' lives and well-being.

There was that stunning passage of a statewide ban on smoking in most public indoor locations, effective July 1. The absurd, hypocritical exemption for state-owned casinos needs to go next session. But it was time for Kansas to join the states that protect the quality of the indoor air we share against the proven health threat of secondhand smoke. Proponents didn't take several years of inaction for an answer, and public health finally won.

Just as surprising as the smoking ban: Both chambers overwhelmingly approved a shield law for journalists, to help when courts try to compel them to turn over notes or testify about confidential sources and unpublished information.

Lawmakers and Gov. Mark Parkinson also came together on a fix to ease Kansas companies' soaring payments to the state's unemployment trust fund.

By restoring the historic tax credit program, the Legislature corrected a mistake damaging for key projects in downtown Wichita such as the renovation of the Broadview Hotel.

The Legislature finalized a bill that includes autism therapy in coverage under the state employee health plan — a step to test the financial impact of a proposed statewide mandate. Within that legislation was a commonsense measure sought by Sen. Susan Wagle, R-Wichita, to close a loophole by requiring insurers to cover oral cancer-fighting drugs as they do intravenous chemotherapy.

Welcome measures also were passed to strengthen domestic violence laws, and to further explore passenger rail service to include Wichita on a route between Kansas City and Dallas-Fort Worth.

When they return, House lawmakers need to join the Senate in treating both the ban on drivers' texting and the primary seat-belt law as the public safety priorities they are, and a conference committee needs to reconcile differences in legislation to make child care facilities safer...

"There are some bright spots out there," Parkinson said last week, as the state learned monthly tax receipts were higher than projected for the first time since November.

Maybe by the time the Legislature clocks in again April 28, the budget picture will have brightened as well. In any case, lawmakers will have to figure out what comes after two years of spending cuts totaling more than \$1 billion — more cuts, more taxes or, more likely, both.

— *The Wichita Eagle, via The Associated Press*

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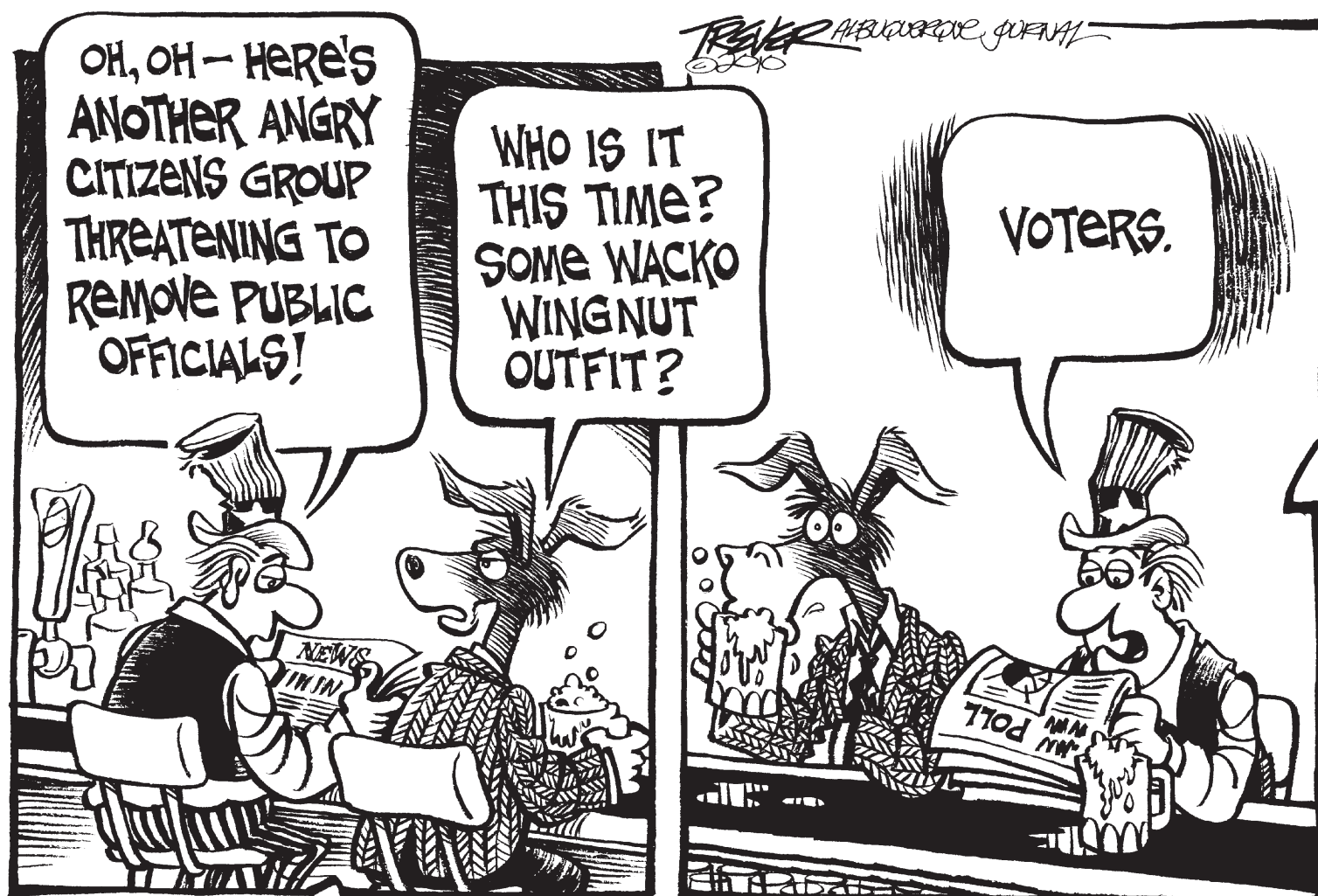
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### Pink pig a member of the family

There on our daughter's bed was an oversized, pink (though now slightly grimy and faded) stuffed pig.

We were helping change the baby or something.

"Elizabeth is out?" I asked.

"I needed something to cuddle up to when I was pregnant," she replied.

I smiled.

For if Lindsay is 33, or soon will be, that must make Elizabeth at least 25. She and Lindsay have been together for a long time: Through grade school and middle school and high school. Off to college at Lawrence-on-the-Kaw for six years.

Then through the years of teaching in small-town Kansas and three years of graduate school in South Carolina, dating and courting and marriage.

I knew Elizabeth had been parked on a shelf the last couple years, replaced as a cuddlemate and relegated to short, sentimental glances.

But there she was on the bed. I guess a true friend is always there when you need her.

It's one of those friendships that grew. Not love at first sight.

Eighteen inches long, mostly pink, entirely cute, sort of flat, with little eyes that look up



**Steve Haynes**

• Along the Sappa

at you, Elizabeth stopped me in my tracks one November day.

We were walking through a mall in Colorado — I can no longer recall where — when she appeared in a shop window on my right.

"Lindsay has to have that pig," I announced.

I couldn't tell you what her mother said, only that she assented.

We went right inside and bought her. Maybe \$35, a lot for a stuffed animal in those days, but Elizabeth had both character and quality.

The saleslady wrapped her up and we took her home, put her under the Christmas tree.

Come Christmas Eve, when we got home from church and the presents were, as usual, arrayed under the tree, the stockings bulging with candy and nuts and treats, Lindsay opened her package.

She was polite, if not exactly delighted.

Years later, she explained that she had told Santa she wanted a skateboard that year, and she just could not understand how he could have made that kind of mistake.

Over the days and weeks to come, however, the two of them bonded. Elizabeth became her constant companion, dwelling on her pillow and traveling with her to a new home, across the state and across the country.

Lindsay grew from a mountain grade schooler to a sophisticated high school girl to a worldly college senior, through jobs and graduate school. And there was Elizabeth.

Now she's a mom, and Elizabeth is still there for her.

I'm not sure she ever did get that skateboard, darn it. (Maybe Santa knew there was no pavement within miles of our house.)

But I do know one thing.

Sometimes, Santa knows what he is doing. So do daddies.

Sometimes.

*Steve Haynes is editor and publisher of The Colby Free Press and president of Nor'West Newspapers. In his spare time, whenever that is, he like to ride and watch trains.*

### Health care law not vulnerable

The attorney general's office has completed its legal review of the Patient Protection and Affordable Care Act. Based on that extensive analysis, I do not believe that Kansas can successfully challenge the law. Our review did not reveal any constitutional defects, and thus it would not be legally or fiscally responsible to pursue this litigation.

There can be no question that the new federal law is the subject of vigorous policy debate across the country; however, my decision is based strictly on the law, not politics. From the beginning of my tenure as attorney general, my priority has been to remove politics from the office and act as an independent attorney general. I will continue to make decisions based on the law, not in response to political pressure.

Legal precedent demonstrates that throughout our nation's history, the U.S. Supreme Court has been reluctant to overturn legislative acts unless a clear and direct constitutional violation is shown. Article I, section 8 of the U.S. Constitution expressly gives Congress the power to legislate on matters affecting interstate commerce. The Supremacy Clause makes these laws supreme, regardless of any state laws or state constitutional provisions to the contrary. No serious argument may be advanced that the healthcare industry and all those who participate in it — including doctors, nurses, patients and insurers — are not part of



**Robert Six**

• Attorney General

interstate commerce.

Arguments have been advanced that the law's requirement that all individuals purchase health insurance is unconstitutional. Under current U. S. Supreme Court precedent such an argument is highly unlikely to succeed. Further, the only legal case addressing the constitutionality of mandatory health care insurance involved the law that required all Massachusetts residents to purchase health insurance. Constitutional challenges were brought to the Massachusetts health care plan and rejected in court. *Fountas v. Commissioner of the Department of Revenue*, 2010 Mass. App. Unpub. Lexis 223 (March 5, 2010).

The argument that the Act's expansion of eligibility for Medicaid violates states' rights by forcing Kansas to spend additional money to insure more Kansans is a policy argument, not a constitutional argument. Medicaid is a joint federal-state program which Kansas participates in voluntarily and where Kansas funds the program with approximately 60 per-

cent federal dollars. The U.S. Supreme Court for nearly a century has repeatedly reaffirmed the power of Congress to impose requirements on the states as a condition of the receipt of federal funds. Medicaid is a classic example of the kind of federal spending programs the Supreme Court has consistently upheld.

The Kansas Attorney General's office is doing more with fewer and fewer state general fund dollars. In these challenging economic times, financial fraud directed at seniors is increasing and our lawyers are working to stop it. My office has launched new initiatives cracking down on Medicaid fraud, returning record amounts of money to our state. Our lawyers are working to protect Kansas' natural resources and spending more and more time on a complex and expensive lawsuit against the States of Colorado and Nebraska to protect Kansas' water rights in the Republican River Basin.

I do not believe it is in the best interest of Kansas to divert resources from these vital legal matters to pursue a lawsuit driven by political differences and policy debates, a lawsuit that I believe has little to no chance of success and will squander scarce resources in a time of severe budget shortfalls. Additionally, Kansas has no separate legal interest apart from the states that have filed the lawsuit and any decision by the U.S. Supreme Court will apply equally to our state.

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