

Journal of the Senate

SIXTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, June 1, 2011, 10:00 a.m.

As provided by **SCR 1609**, the Sine Die Session of the regular 2011 Kansas Senate was called to order by President Stephen Morris.

The roll was called with thirty-eight Senators present.

Senators Bruce and Steineger were excused.

President Morris introduced as guest chaplain, Senator Dick Kelsey, who delivered the invocation:

Heavenly Father we come to you on the official last day of the legislative session thanking you for the honor of serving here in the Senate this past year. We pray that the decisions we made will be in the best interest of our state. Give us the courage to admit our error when we find that some decision we made was not correct and that next session we will take corrective action.

We pray for our colleague, Senator Donovan, that you will give him grace and strength as we mourn the loss of his wife Sissy. We thank you for her life and the inspiration she was to each of us.

Lord, as we all go our different directions this summer and fall, give each one safety, health and wisdom. Bless those in the administration as they strive to continue to fashion a new executive branch of our government.

The Pledge of Allegiance was led by President Stephen Morris.

REPORT ON ENGROSSED BILLS

SB 21, SB 115; H Sub for Sub SB 127, H Sub for SB 154 reported correctly engrossed May 13, 2011.

Also, **SB 76, SB 77, SB 150** correctly re-engrossed May 13, 2011.

H Sub for Sub SB 111 reported correctly engrossed May 16, 2011.

H Sub for SB 55 reported correctly engrossed May 17, 2011.

Also, **H Sub for SB 6** correctly re-engrossed May 18, 2011.

REPORT ON ENROLLED BILLS

SB 77, SB 193, SB 247 reported correctly enrolled, properly signed and presented to the Governor on May 17, 2011.

H Sub for SB 6; SB 21; H Sub for SB 37, H Sub for SB 55; SB 61; H Sub for SB

63; SB 76; H Sub for SB 111; SB 115; H Sub for Sub SB 127; SB 143, SB 150; H Sub for SB 154, H Sub for SB 196 reported correctly enrolled, properly signed and presented to the Governor on May 20, 2011.

SCR 1609 reported correctly enrolled, properly signed and presented to the Secretary of State on May 20, 2011.

MESSAGE FROM THE GOVERNOR

H Sub for SB 23; SB 67, SB 123, SB 136, SB 170, H Sub for SB 213, H Sub for SB 214, approved on May 12, 2011.

H Sub for SB 36 approved on May 16, 2011.

SB 50, SB 77 approved on May 18, 2011.

SB 10, SB 97, SB 124, SB 247 approved on May 19, 2011.

H Sub for SB 6; SB 21; H Sub for SB 37, H Sub for SB 55; SB 61; H Sub for SB 63; H Sub for Sub SB 111; SB 115; H Sub for SB 127; SB 143, SB 150; H Sub for SB 154 approved on May 25, 2011.

SB 193; H Sub for SB 196 approved on May 26, 2011.

SB 76 approved on May 27, 2011.

MESSAGE FROM THE GOVERNOR

Senate Bill **93** has been signed into law.

Senate Bill **93** establishes that it shall be unlawful in Kansas for any law enforcement officer to unreasonably rely on race, ethnicity, national origin, gender or religion to make a decision to arrest a person; a decision to stop or detain a person; or a decision to search a person or vehicle. **SB 93** also establishes that all law enforcement agencies in Kansas will put in place a detailed written policy prohibiting biased policing and explaining the requirements of the law. In addition, those agencies will be required to provide annual training on the subject of biased policing and to subject that training curricula to the review of an advisory panel. Finally, **SB 93** sets forth a variety of mechanisms whereby the intent of the law to eliminate and prevent biased policing can be practically carried out, including: provisions for a community review board; provisions for receiving complaints of biased policing; and reporting requirements from local law enforcement agencies to the office of the Kansas Attorney General.

Many in the minority communities of Kansas have told me that **SB 93** does not go far enough in addressing issues of fundamental justice for their communities. I have listened to their suggestions carefully and I have heard their heartfelt concern. I am firmly committed to continuing to work closely with all Kansans, and especially minority Kansans, to improve and expand full equality under the law.

Approved on May 20, 2011.

Sam Brownback
Governor

MESSAGE FROM THE GOVERNOR

May 25, 2011

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 11-09 for your information.

With Warm Regards,

Sam Brownback
Governor

The President announced Executive Order No. 11-09, Authorizing Conditional and Temporary Relief from Motor Carrier Rules and Regulations, is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE GOVERNOR

May 26, 2011

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 11-10 for your information.

With Warm Regards,

Sam Brownback
Governor

The President announced Executive Order No. 11-10, Authorizing Conditional and Temporary Relief from Healing Arts Act Rules and Regulations, is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE GOVERNOR

May 31, 2011

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 11-11 for your information.

With Warm Regards,

Sam Brownback
Governor

The President announced Executive Order No. 11-11, Authorizing Conditional and Temporary Relief from Kansas Banking Code, is on file in the office of the Secretary of the Senate and is available for review at any time.

COMMUNICATIONS FROM STATE OFFICERS

May 12, 2011

UTAH STATE LEGISLATURE

A communication was received from Utah State Legislature concerning **SJR 12**, urging Congress to resolve immigration policy issues or give states the authority to address these issues within their own borders; **SCR 15**, urging the United States Congress to exempt wolves from the Endangered Species Act in every state and **HJR 19**, expressing opposition to the Environmental Protection Agency's regulation of green house gasses without Congressional approval.

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

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **HB 2015**.

The House reconsidered its action and adopts the conference committee report on **HB 2075**.

The House reconsidered its action and adopts the conference committee report on **HB 2139**.

The House adopts the Conference Committee report on **HB 2182**.

Announcing adoption of **SCR 1609**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1868—

A RESOLUTION congratulating and commending the Louisburg High School football team for winning the 2010 Class 4A state championship.

WHEREAS, The Louisburg High School football team won the 2010 Class 4A state championship with a 24-16 victory over Holton High School on November 27, 2010, at Salina; and

WHEREAS, The Louisburg Wildcats scored 14 points in the fourth quarter to break a 10-10 tie and racked up 24 consecutive points in their comeback over Holton; and

WHEREAS, The victory in the state championship game capped off a perfect 14-0 season for Louisburg. The Wildcats never trailed during the season until the first half of the state championship game. The team set a goal of a perfect season at the beginning of the year and achieved it through countless hours of training and practice; and

WHEREAS, The Wildcats reached the state championship game with a dominating 28-7 Sub-State victory over their cross-county rival Paola; and

WHEREAS, The state title was the biggest win in the program's storied history. Louisburg football has not had a losing season since 1989, but the program had never before been able to bring home the state crown. The 2010 Wildcats were finally able to silence all the critics who said that Louisburg couldn't win the big game; and

WHEREAS, Head Coach Gary Griffin was named the 2010 Kansas Football Coach

of the Year by the Kansas Football Coaches Association; and

WHEREAS, Defensive lineman Tyler Ewy was named the 2010 Bobby Bell Award Winner, which is given to the top small-school lineman/linebacker in the Kansas City metro area. He was also named to the Topeka Capital-Journal and Wichita Eagle Top 11 in 2010 and was named to the Class 4A All-State team. Tyler will represent the East Team in the 2011 Kansas Shrine Bowl and will continue his football career at Washburn University; and

WHEREAS, Four Louisburg seniors were selected to play in the Metro All Star Game: Tyler Ewy, along with fullback Alex Gentges, guard Ross Dvorak and quarterback/defensive back Kody Cook. Ross Dvorak and Kody Cook were also named to the Class 4A All-State team. Ross will play college football at Northeastern State University and Kody and Alex both signed to play for Hutchinson Community College. All four were leaders of a senior class that compiled a record of 45-7 during their four seasons; and

WHEREAS, The team could not have achieved its goals without the enthusiastic support of the school's administrators, faculty and students, the players' parents and members of the Louisburg community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Louisburg Wildcats and Head Coach Gary Griffin for winning the 2010 Class 4A state football championship. The Wildcats exemplify what dedication, determination and team work can accomplish. We wish all the team members and coaches continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate shall send 30 enrolled copies of this resolution to Senator Apple.

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

Senator Apple congratulated and commended the Louisburg High School football team for winning the 2010 Class 4A state championship. Head Coach Gary Griffin was recognized for being named the 2010 Kansas Football Coach of the Year. Four seniors were introduced for playing in the Metro All Star Game: Tyler Ewy, Alex Gentges, Ross Dvorak and Kody Cook. Also introduced were the remaining football team members. The Senate acknowledged their achievement with a standing ovation.

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

SENATE RESOLUTION No. 1869—

A RESOLUTION recognizing Farmers Insurance Group and its support of Be a Hero for Babies Day, benefiting the March of Dimes.

WHEREAS, The state of Kansas takes great pride in recognizing those who provide the highest standards of service and contribute in a meaningful way to the creation of a better and more productive society; and

WHEREAS, Farmers Insurance Group will participate in Be a Hero for Babies Day, benefiting the March of Dimes, on June 29, 2011; and

WHEREAS, Farmers Insurance Group is the largest insurance company sponsor of the March of Dimes and is also the exclusive national sponsor of March for Babies; and

WHEREAS, Farmers Insurance Group has worked with the March of Dimes for 23 years to raise awareness and millions of dollars in support of the mission for healthy babies and mothers; and

WHEREAS, Through Be a Hero for Babies Day, the network of Farmers Insurance agencies and district offices throughout the United States will work to raise \$2,000,000 in support of this worthy cause: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and pay tribute to Farmers Insurance Group for its dedicated efforts to support the March of Dimes and extend our warmest wishes for a future replete with increasing success and service to the community; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Farmers Insurance Group, 11880 College Boulevard, Overland Park, Kansas 66210.

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

As provided by **SCR 1609**, Senator Emler moved 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 2011 Session of the Kansas Senate adjourned Sine Die."

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor **Senate Substitute for HB 2014**, AN ACT making and concerning appropriations for fiscal years ending June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, reducing compensation for state officers, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2010 Supp. 2-223, 12-5256, 49-514, 55-193, 72-8814, 74-99b34, 75-2319, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections; also repealing section 138 of chapter 165 of the 2010 Session Laws of Kansas, was received on May 28, 2011 and read on June 1, 2011.

Message to the Legislature of the State of Kansas:

I want to congratulate the 2011 Legislature on putting together a fair budget in the midst of a down economy. Filling a \$500 million budget hole without raising taxes is a difficult task, but the Committees on Appropriations and Ways and Means and the entire House and Senate took on the challenge and produced a budget that funds state priorities while maintaining a responsible \$50 million real ending balance. And this balance will grow throughout FY 2012. In fact, in the time period between passage of this bill and today, it is estimated that KPERS will show \$4 million in additional savings in FY 2011 and \$11 million in FY 2012. I am proud of everyone's hard work. I will sign this bill.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2014 with my signature approving the bill, except for the items enumerated below. The net effect of these line item vetoes will be an increase in the ending balance of \$498,000.

Kansas Technology Enterprise Corporation Pipeline

Section 26 has been line-item vetoed in its entirety.

As part of my agency reorganizations, I recommended elimination of KTEC. This is an unnecessary appropriation from a fund (the EDIF) that is short of cash for an agency that will not exist on July 1. Other sources are now available to keep the entrepreneurial program running.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Department of Health & Environment—Division of Health Care Finance Preferred Mental Health Drug List

Section 108(e) has been line-item vetoed in its entirety.

The Preferred Drug List for the Medicaid Program has been in use for several years and has helped in controlling pharmacy expenditures which had been growing exponentially. Expanding the Preferred Drug List to include mental health drugs and using the Mental Health Preferred Drug List (PDL) Advisory Committee to recommend appropriate medically-indicated management of mental health drugs dispensed under the MediKan program will reduce expenditures. My veto of this provision will not require implementation of a PDL, but would allow for improved patient safety; timely access to medications, support of systematic, best-practice guidance for providers, and lower overall costs. The use of a PDL is standard practice in most private health insurance plans.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

State Employee Health Benefits Program Surcharge

Section 108(f) has been line-item vetoed in its entirety.

After further review of this provision, it appears that the revenues that might be generated from a surcharge on state employee health premiums are far less than originally anticipated. After a thorough review, the actual revenues that can reasonably be anticipated from this surcharge are \$790,000. Given the legal concerns the provision may create as it relates to the Kansas Wage Payment Act coupled with the smaller revenues produced, I am compelled to veto the surcharge. I have further directed the Secretary of the Kansas Department of Health and Environment that upon the effective date of the state reorganization of the Kansas Health Policy Authority, the state employee gift card program shall be phased out. This administrative action is

reasonably anticipated to generate savings to the Health Plan of \$600,000, which amount shall essentially offset the lost revenue as a result of this specific line-item veto.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

**Department of Social and Rehabilitation Services
Quarterly Reporting**

That portion of Section 111(a) that reads as follows has been line-item vetoed:

“And provided further, That in addition to the other purposes for which expenditures may be made by the above agency from the state operations account for fiscal year 2012, expenditures shall be made by the above agency from the state operations account for fiscal year 2012 to report, at least quarterly during such fiscal year, to the legislative budget committee concerning the budget and financial status of the department of social and rehabilitation services and any other matter the committee may request.”

I have directed my administration to maintain open lines of communication with the Legislature, instructing them to operate transparently and provide timely information on our policies, ongoing progress, and the challenges we must meet. The language contained in this provision would place an unfair and unnecessary administrative burden on one state agency, so I have vetoed it.

Members were given the opportunity to reconsider the line item veto.. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

**Kansas Arts Commission
Agency Operations**

Section 115(a) has been line-item vetoed in its entirety. That portion of Section 143(a) that reads as follows has been line-item vetoed:

“Kansas Arts Commission.....6.00”

This veto strikes State General Fund appropriations made to the Commission and removes the Commission’s FTE position limitation. My FY 2012 Budget Report recommended no funding for the Commission and outlined a transition plan in order to fund the arts in Kansas with private donations while maintaining the state’s federal match. In difficult fiscal times such as these, the state must prioritize how to spend its limited resources and focus its attention on providing core services. The arts will continue to thrive in Kansas when funded by private donations, and I intend to personally involve myself in efforts to make this happen.

A motion was made that, notwithstanding the Governor's objections, the line item be reconsidered. By a vote of 50 Yeas and 44 Nays, the motion failed to receive the necessary two-thirds constitutional majority vote of the elected members of the House of Representatives, and the line item veto was sustained.

Across the Board Reduction

That portion of Section 175 that reads as follows has been line-item vetoed:

“Provided further, That the aggregate amount lapsed in each account of the state general fund of the state agency under this section shall be the amount in the account budgeted for state operations which bears the same relation to \$5,900,000 as the aggregate amount budgeted for state operations from the state general fund for the state agency in the Governor's Budget Report for FY 2012 bears to the aggregate amount budgeted for state operations from the state general fund for all state agencies in the Governor's Budget Report for FY 2012.”

My administration remains committed to right-sizing the state budget and reducing the likelihood of allotments by maintaining a responsible ending balance. While I fully intend to make these reductions, I must have the flexibility to impose them where I believe they can be made without harming key services. The \$5.9 million reduction is left intact with this veto and the certification of reductions will be made as provided for in the bill. These reductions, however, should not be made on a pro-rata basis, so I have vetoed this proviso.

Members were given the opportunity to reconsider the line item veto.. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Moving Forward

As we look toward more challenges ahead, I encourage the Legislature to join me in thoroughly reviewing areas where we can reduce the reach of state government. One of these areas is state subsidization of public broadcasting. I intend again to include no funding for public broadcasting operations grants in my FY 2013 budget, so I encourage recipients of these grants to make appropriate preparations.

Again, I commend the Legislature for its work during the 2011 session, and I look forward to working with all of you in the coming months and years as we get our state's budget and economy back on track.

Approved with line item vetoes: May 27, 2011
Signed, Sam Brownback
Governor

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

