

Journal of the Senate

SEVENTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, May 31, 2002—9:30 a.m.

As provided by **SCR 1627**, the sine die session of the regular 2002 Kansas Senate was called to order by President Dave Kerr.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

We are here assembled
For the climax of a session
Characterized by much distress
And leaving deep impressions.

Looking back upon it all,
There was much contention;
Feelings were running high
Leading to dissension.

Letters to the editor
Were as critical as expected;
Lumping us all together,
We were sliced up and dissected.

It continues to amaze me, Lord,
How those who know the least
Make sure their views are published
And on legislators feast.

Do these critics really think
That we should all agree
And all the legislation pass
In perfect harmony?

If that's the government they want,
Then let them find a nation
Where one man makes decisions
And rules by pure dictation.

The saying still holds true:
Someone said it best:
"Democracy is the worst way,
Except for all the rest!"

And one of your disciples, Lord,
(John Adams was his name),
Said that every worthy cause
Must carry with it pain.

I pray in the Name of Christ,
AMEN

REPORT ON ENGROSSED BILLS

SB 553 reported correctly re-engrossed May 16, 2002.

H Sub SB 9, H Sub SB 152 reported correctly engrossed May 17, 2002.

Also: **SB 39, SB 459, SB 481, SB 482** correctly re-engrossed May 17, 2002.

H Sub SB 112, H Sub SB 363; SB 472 reported correctly engrossed May 20, 2002.

Also: **SB 438, SB 509, SB 531** correctly re-engrossed May 20, 2002.

REPORT ON ENROLLED BILLS

SB 119; H Sub SB 208, H Sub SB 296; SB 396; H Sub SB 422, H Sub SB 434; SB 551, SB 586, SB 647, SB 664 reported correctly enrolled, properly signed and presented to the Governor on May 20, 2002.

Sub SB 9; SB 39; Sub SB 112, Sub SB 152, Sub SB 363; SB 438, SB 459, SB 472, SB 481, SB 482, SB 509, SB 531, SB 553; Sub SB 643 reported correctly enrolled, properly signed and presented to the Governor on May 22, 2002.

SCR 1627 reported correctly enrolled, properly signed and presented to the Secretary of State on May 22, 2002.

MESSAGE FROM THE GOVERNOR

Message to the Senate of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Bill No. 517 with my signature approving the bill, except for the items enumerated below.

Department of Commerce & Housing

Film & Video Attraction Program

The portion of Section 88(a) that reads as follows has been line-item vetoed:

And provided further, That expenditures shall be made by the above agency from the moneys appropriated in the operating grant (including official hospitality) account of the state economic development initiatives fund in the amount of not less than \$75,000 for a Kansas film and video attraction program, which shall be used by the Kansas film commission to attract film and video projects to the state:

Section 88(a) requires the Department of Commerce and Housing to spend \$75,000 of its operating expenditures from the Economic Development Initiatives Fund for a Kansas Film and Video Attraction Program. For the first time, the legislature has provided an operating grant for the Department, which is designed to give the agency flexibility in allocating funds between activities that produce measurable outcomes, rather than funding individual programs at a fixed amount. This proviso undermines the concept before the operating grant has had a chance to work. Because no additional funds were added for this purpose, this \$75,000 would have to be taken from an already reduced budget. In addition, the grant amount exceeds what the Department has been able to award in the past. The proviso also eliminates the Department's authority to issue the grants. Therefore, I find it necessary to veto this grant.

Emergency Medical Services Board

Radio Tower in Meade County

Section 120(c) has been line-item vetoed in its entirety.

This section imposes an FY 2003 expense on the EMS Board for the use of radio towers. The use of state-owned, 800-megahertz radio antennae in Meade County as a platform for a non-state owned early warning system would create an undesirable precedent for the state. Agency policies are based upon sound expertise and designed to protect the integrity of the state system. Legislatively mandated modifications of the practices on a piecemeal basis generate the increased probability of significant future problems. The probability of equipment interference, even if the system is found to be 800-megahertz compliant, is great enough that I find it necessary to veto this section.

Department of Administration

Statehouse Dome Support for Ad Astra

Section 141(l) has been line-item vetoed in its entirety.

This section prohibits the Department of Administration from spending state funds during FY 2003 to reinforce the dome of the Statehouse so it will support the Ad Astra sculpture. However, private gifts, grants, or donations could be used for this project. At the time the agreement was made with the artist of the statue, no provision was made for support of the dome to be financed with private funds. The purpose of this proviso is not clear. When this item was considered during review of the budget, some objections were raised about the incorporation of this project into the broader Statehouse renovation effort, which would have allowed it to be financed through the State General Fund debt service payments on the renovation. If this proviso is intended to prevent this project from becoming funded from debt service for the Statehouse renovation, it is overbroad because it prohibits the use of *any* public funds for the project. Therefore, I line-item veto this proviso because it is unnecessary and unduly restrictive.

Board of Regents

Rehabilitation & Repair Projects

The portion of Section 157(a) that reads as follows has been line-item vetoed:

Rehabilitation and repair projects, Americans with disabilities act compliance projects, state fire marshal code compliance projects, and improvements to classroom projects for institutions of higher education \$10,000,000

Provided, That the state board of regents is hereby authorized to transfer moneys from the rehabilitation and repair projects, Americans with disabilities act compliance projects, state fire marshal code compliance projects, and improvements to classroom projects for institutions of higher education account to an account or accounts of the Kansas educational building fund of any institution under the control and supervision of the state board of regents to be expended by the institution for projects approved by the state board of regents: *Provided, however*, That no expenditures shall be made from any such account until the proposed projects have been reviewed by the joint committee on state building construction.

During the 2001 Legislative Session, as a multi-year appropriation, \$10.0 million in funding from the Kansas Educational Building Fund was provided for rehabilitation and repair projects at state universities in each year for FY 2002 and FY 2003. This funding is appropriated to, and distributed by, the Board of Regents to the universities. During the preparation of appropriations, the \$10.0 million in funding for FY 2003 was unintentionally duplicated. My veto of this section will reflect the budget as it was intended by eliminating the duplication.

Dated: May 18, 2002

BILL GRAVES
Governor

May 29, 2002

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 02-324 for your information.

Sincerely,
BILL GRAVES
Governor

The President announced Executive Directive No. 02-324, Authorizing a Personnel Transaction and Expenditures from Federal Funds, is on file in the office of the Secretary of the Senate and available for review at any time.

SB 69, SB 297; H Sub SB 364; SB 400, SB 429; H Sub SB 430; SB 436, SB 444; Sub SB 467; SB 474; SB 475; H Sub SB 486; SB 489, SB 499, SB 502; Sub SB 508; SB 541, SB 543; Sub SB 545; H Sub SB 605; Sub SB 614; SB 618, SB 652 approved May 17, 2002.

H Sub SB 9; H Sub SB 112; SB 119; H Sub SB 208; H Sub for Sub SB 296; SB 396; H Sub for Sub SB 422; H Sub SB 434; SB 438, SB 459, SB 481, SB 482, SB 509, SB 531, SB 551, SB 553, SB 586, SB 664 approved May 29, 2002.
SB 39, SB 472; H Sub SB 643; SB 647 approved on May 30, 2002.

MESSAGE FROM THE HOUSE

Announcing adoption of **SCR 1627**.

The House accedes to all Senate committee report on **HB 2896**.

Rejection of **SB 392**.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Clark as a member of the Conference Committee on **S Sub for HB 2034** to replace Senator Emler.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2034**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Amended by Senate on Final Action, as follows:

On page 1, by striking all in lines 21 through 43;

By striking all on pages 2 through 7;

On page 8, by striking all in lines 1 through 7 and inserting:

“Section 1. K.S.A. 55-102 is hereby revived and amended to read as follows: 55-102.

(a) Except as provided in subsection (b), it shall be unlawful for any person, firm or corporation having possession or control of any ~~natural gas or natural gas well~~, oil well or coalbed natural gas well, whether as a contractor, owner, lessee, agent or manager, to use or permit the use of gas by direct well pressure for pumping of oil or for blowing oil out of wells, or for operating any machinery by direct well pressure of gas, or to allow or permit the flow of gas or oil from any such well to escape into the open air without being confined within such well or proper pipes or other safe receptacle for a longer period than two days after gas or oil shall have been struck in such well, except that a reasonable time, not exceeding five days, shall be allowed such contractor, owner, lessee, agent or manager, in addition to such two days, in which to place in the well the casing, tubing, packers and other appliances necessary to properly operate the same and obtain the products therefrom or, in case such contractor, owner, lessee, agent or manager shall not desire to operate such well, to securely enclose the same, so as to prevent the escape of oil or gas therefrom, and thereafter all such gas or oil shall be safely and securely confined in such well, pipes, or other proper receptacle. The provisions of this section shall not be construed to apply to the escape of gas or oil during continuous drilling. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall be fined in the sum not less than \$50 nor more than \$200, or by imprisonment in the county jail for not less than 30 days nor more than six months, and each day that the violation continues shall constitute a separate offense.

(b) Natural gas produced from natural gas wells or in connection with the production of oil, or coalbed natural gas produced from coal seams or associated shale, may be flared, vented or used in any manner if such use ~~or~~, flaring or venting is authorized by ~~an order, rule or regulation~~ order or rules and regulations of the state corporation commission.

Sec. 2. K.S.A. 55-102, as revived by section 1, and K.S.A. 55-102, as amended by section 1 of 2002 House Bill No. 3031, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, in line 14, by striking all after “concerning”; by striking all in lines 15 through 18 and inserting: “natural gas; reviving and amending K.S.A. 55-102 and repealing the revived section; also repealing K.S.A. 55-102, as amended by section 1 of 2002 House Bill No. 3031.”;

And your committee on conference recommends the adoption of this report.

KARIN S. BROWNLEE
STAN CLARK
JIM BARONE
Conferees on part of Senate

CARL DEAN HOLMES
TOM SLOAN
LAURA MCCLURE
Conferees on part of House

Senator Clark moved the Senate adopt the Conference Committee Report on **S Sub for HB 2034**.

On roll call, the vote was: Yeas 33, Nays 0, Present and Passing 0, Absent or Not Voting 7.

Yeas: Adkins, Barone, Brownlee, Clark, Donovan, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Allen, Barnett, Brungardt, Corbin, Emler, Harrington, Steineger.
The Conference Committee report was adopted.

ACTION OF VETO MESSAGES

Announcing a line item veto message from the Governor having been received on May 18, 2002, Senator Hensley moved the Senate reconsider the line item veto in section 141(1) of 2002 **SB 517** which reads as follows:

(1) During the fiscal year ending June 30, 2003, no moneys appropriated for the department of administration for the fiscal year ending June 30, 2003, from the state general fund or any special revenue fund by this or other appropriation act of the 2002 regular session of the legislature shall be expended by the department of administration for the purpose of reinforcing the statehouse dome for placement of the Ad Astra sculpture atop the statehouse dome: *Provided*, That the provisions of this subsection shall not apply to gifts, grants or donations received for this project.

and that such line item pass notwithstanding the Governor's veto.

On roll call, the vote was: Yeas 20, Nays 13, Present and Passing 0, Absent or Not Voting 7.

Yeas: Barone, Brownlee, Clark, Donovan, Feleciano, Gilstrap, Gooch, Haley, Hensley, Huelskamp, Jackson, Jordan, Lee, Lyon, O'Connor, Pugh, Salmans, Taddiken, Tyson, Wagle.

Nays: Adkins, Downey, Goodwin, Jenkins, Kerr, Morris, Oleen, Praeger, Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Absent or Not Voting: Allen, Barnett, Brungardt, Corbin, Emler, Harrington, Steineger.

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.

EXPLANATION OF VOTE

MR. PRESIDENT: This vote is yet another example of failed priorities. Instead of keeping violent criminals behind bars, we've chosen to use \$750,000 to put a statue on the dome.

The Kansas Department of Corrections reports that SB 323, passed in the 2000 Legislative Session, released 887 violent criminals early from prison to save the state \$725,000. And 252 of those criminals, in 21 months, are back in prison for crimes such as rape, murder and child molestation. In the choice between crowning the dome and protecting Kansas families, I choose Kansas families.—TIM HUELSKAMP

Senators Brownlee and O'Connor request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **SB 517**.

VETO SUSTAINED

There being no motion to reconsider the line item vetoes on:

The portion of Section 88(a) that reads as follows:

And provided further, That expenditures shall be made by the above agency from the moneys appropriated in the operating grant (including official hospitality) account of the state economic development initiatives fund in the amount of not less than \$75,000 for a Kansas film and video attraction program, which shall be used by the Kansas film commission to attract film and video projects to the state:

The portion of Section 157(a) that reads as follows:

Rehabilitation and repair projects, Americans with disabilities act compliance projects, state fire marshal code compliance projects, and improvements to classroom projects for institutions of higher education	\$10,000,000
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Provided, That the state board of regents is hereby authorized to transfer moneys from the rehabilitation and repair projects, Americans with disabilities act compliance projects, state fire marshal code compliance projects, and improvements to classroom projects for institutions of higher education account to an account or accounts of the Kansas educational building fund of any institution under the control and supervision of the state board of regents to be expended by the institution for projects approved by the state board of regents:

Provided, however, That no expenditures shall be made from any such account until the proposed projects have been reviewed by the joint committee on state building construction.

Section 120 (c) that reads as follows:

(c) In addition to the other purposes for which expenditures may be made by the emergency medical services board from moneys appropriated from the state general fund or any special revenue funds for fiscal year 2003 as authorized by chapter 144 or chapter 216 of the 2001 Session Laws of Kansas or by this or other appropriation act of the 2002 regular session of the legislature, expenditures are hereby authorized and shall be made by the emergency medical services board from moneys appropriated from the state general fund or any special revenue funds for fiscal year 2003 to use an 800 megahertz radio system tower or towers in Meade county to facilitate placement of an early warning system: *Provided,* That any early warning system placed on such tower or towers shall be 800 MHz compliant as certified by the secretary of transportation.

The line item vetoes were sustained.

There being no further business to be considered Senator Oleen moved, as provided in **SCR 1627**, the Senate adjourn sine die. The motion prevailed.

President Kerr thereupon announced: "By the virtue of the authority vested in me as President of the Senate, I now declare the 2002 session of the Kansas Senate adjourned sine die."

MESSAGE FROM THE HOUSE

Announcing the following bills are hereby transmitted to the Senate with final disposition:

Senate bills that died in conference: **SB 32; House Substitute for SB 35; SB 52, SB 170; House Substitute for SB 192; SB 501, SB 506, SB 619.**

Senate bills and concurrent resolution stricken from the Calendar: **SB 68, SB 151, SB 176, House Substitute for SB 264; SB 313, SB 374; House Substitute for SB 421, SB 446, SB 550, SB 559; SCR 1613.**

Senate bills and concurrent resolutions that died in House Committees: **SB 3, SB 4, SB 6, SB 20, SB 24, SB 25, SB 27, SB 30; Substitute SB 62; SB 66, SB 78, SB 89, SB 92, SB 96, SB 99, SB 108; Substitute SB 121; SB 134, SB 159, SB 163, SB 166, SB 172, SB 175, SB 177, SB 193, SB 197, SB 213, SB 220, SB 227, SB 231, SB 235, SB 236, SB 252, SB 257, SB 265; Substitute SB 279; SB 283, SB 291; Substitute SB 328; SB 329, SB 333, SB 342, SB 344, SB 348, SB 350, SB 357; Substitute SB 365; SB 377, SB 382, SB 383, SB 386, SB 388, SB 393, SB 399, SB 401, SB 405, SB 408, SB 411, SB 412, SB 413, SB 414, SB 417, SB 418, SB 419, SB 424, SB 431, SB 453, SB 457; Substitute SB 465; SB 468, SB 471, SB 473, SB 476, SB 483, SB 484, SB 487;**

Substitute SB 488; SB 492, SB 505, SB 511, SB 520, SB 521, SB 524, SB 526, SB 527, SB 540, SB 557, SB 583, Substitute SB 584; Substitute SB 603; SB 604, SB 610, SB 622; Substitute SB 634; SB 637, SB 638, SB 640, SB 641, SB 648, SB 650, SB 651, SB 653, SB 656, SB 658; SCR 1609, SCR 1610, SCR 1615, SCR 1617, SCR 1618, SCR 1621.

MESSAGE FROM THE HOUSE

Announcing the veto message from the Governor on **House Bill 3023**, AN ACT relating to property taxation; concerning the determination of fair market value; amending K.S.A. 79-503a and repealing the existing section, which was received May 17, 2002 and read on May 31, 2002.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I am vetoing **HB 3023**. **HB 3023** modifies the term "fair market value." Under this bill, when a builder pays the special assessment before selling developed property to the buyer, it becomes part of the selling price and the fair market value includes the special assessment when appraisal is done. If a builder passes the special assessment on to the buyer, it is not included in the fair market value and the appraiser is not allowed to consider it as part of the fair market value. I veto **HB 3023** because it creates a situation in which two pieces of identical property are given different fair market values dependent upon the timing of payment.

BILL GRAVES
Governor

Dated: May 17, 2000

There being no motion to reconsider the veto of **House Bill 3023**, the Speaker ruled the veto sustained.

MESSAGE FROM THE HOUSE

Announcing the House adopted the conference committee report on **Senate Substitute for HB 2034**.

MESSAGE FROM THE HOUSE

Announcing the veto message from the Governor on **House Bill 2719**, An act concerning certain governmental procedures; relating to state and school district purchasing procedures; repealing the Kansas performance review act; amending K.S.A. 75-3738 and 75-3740 and K.S.A. 2001 Supp. 72-6760, 75-3739 and 75-3739a and repealing the existing sections; also repealing K.S.A. 75-7101, 75-7102, 75-7103, 75-7104, 75-7105 and 75-7107 which was received May 31, 2002.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby veto **House Bill 2719**.

House Bill 2719 attempts to provide a mechanism for reviewing contracts proposed under the non-competitive bid exceptions of current law. Although the notice provisions of this bill are probably not unduly burdensome, the legislature failed to adequately define who can file a legitimate protest to a non-competitive contract. There are no provisions to guard against abuse of protests without merit. This failure can result in costs to the taxpayers in both time and money.

For example, legitimate protests to the non-competitive contracts should come from someone knowledgeable and interested in bidding not simply from someone more interested in disrupting the acquisition of goods and services vital to the State of Kansas.

For these reasons, I veto **House Bill 2719**.

BILL GRAVES
Governor

Dated May 31, 2002

The Legislature having adjourned sine die, there was no opportunity for the members to reconsider **HB 2719** and the veto is sustained.

MESSAGE FROM THE HOUSE

Announcing the veto message from the Governor on **HB 2030**, An act providing incentives for certain businesses; prescribing duties and authorities for the Kansas development finance authority and the secretary of commerce and housing relating thereto.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby veto **House Bill 2030**.

House Bill 2030 would authorize the Kansas Development Finance Authority to issue bonds totaling up to \$10,000,000 for a qualified business contracting for such treatment with the Department of Commerce and Housing. I veto this bill because it duplicates provisions in **SB 39**, the comprehensive tax bill, already signed into law. The record reflects that the House of Representatives passed **House Bill 2030** immediately after passing the identical provisions in **SB 39**. Those Representatives who voted "No" on **SB 39**, followed immediately by a "Yes" vote on this bill, are more interested in creating political cover for themselves than acting responsibly for Kansas. It was a blatant act of political deception.

BILL GRAVES
Governor

Dated May 31, 2002

The Legislature having adjourned sine die, there was no opportunity for the members to reconsider **HB 2030** and the veto is sustained.

MESSAGE FROM THE GOVERNOR

Sub SB 152 approved on May 31, 2002.

Message to the Senate of the State of Kansas:

I hereby return **House Substitute for Senate Bill No. 152** with my signature and ask that the following message be recorded in the official record.

Due to the lack of timely legislative action on congressional redistricting, I have been left with only unappealing options in handling this issue. I do not support the separation of interest that exists between Fort Riley and Junction City, where a significant number of the soldiers, their families and employees reside. The economic welfare of Junction City is directly linked to the well-being of Fort Riley. It is unconscionable to separate these clear communities of interest.

However, if I were to veto this bill, the current congressional districts would remain in existence. Thus, the State of Kansas would be in the position of holding elections in congressional districts that do not adhere to the "one man-one vote" tenet of the United States Constitution. Thus, a veto of this bill is unacceptable, as Kansas would fail to adequately provide a fair voice for a significant number of its citizens.

Signing this bill should not be construed as an endorsement of its content. I am simply choosing between the less egregious of two poor choices.

BILL GRAVES
Governor

Dated May 31, 2002

MESSAGE FROM THE GOVERNOR

Message to the Senate of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return **House Substitute for Senate Bill No. 363** with my signature approving the bill, except for the item enumerated below.

Attorney General

Microsoft Litigation

Section 2(b) has been line-item vetoed in its entirety.

The constitutional doctrine of separation of powers provides protection to citizens by ensuring that each branch of government is able to carry out its responsibilities without interference from the other branches of government. In Section 2(b) the Legislature is attempting to make a policy decision for the Attorney General.

Legislature

Hesston College Flagpole

Section 38 has been line-item vetoed in its entirety.

It is poor public policy for the Legislature to intrude on the rights of private institutions. If the Kansas Legislature believes that a private Kansas college, which fails to adequately display the U.S. flag, should, not receive state funding for student financial aid, then the Legislature should take appropriate action to withhold funding.

Department of Social & Rehabilitation Services

Senior Service Trust Fund Transfers

Section 6(j) and 6(k) have been line-item vetoed in their entirety.

Section 6(j) transfers \$18.5 million from the State General Fund to the Senior Services Trust Fund at the beginning of FY 2003. Section 6(k) transfers \$28.9 million from the state General Fund to the Senior Services at the end of FY 2004. The intent was to use funding from the trust for State General Fund cashflow purposes and replace it to fund a larger pharmacy assistance program in future years. However, the Legislature did not pass a bill to create a new pharmacy assistance program. If such a bill were passed in the future, appropriations to a trust could be made at that time. Therefore, I veto these sections.

Counseling Center Grant

The portion of Section 6(a) that reads as follows has been line-item vetoed:

Youth services aid and assistance

For the fiscal year ending June 30, 2002..... \$35,000

Provided, That expenditures shall be made for fiscal year 2002 from the youth services aid and assistance account for a grant in the amount of \$35,000 to the headquarters counseling center in Lawrence, Kansas, which shall be matched on the basis of \$1 for \$1 by the headquarters counseling center.

The section would appropriate \$35,000 from the State General Fund to the Headquarters Counseling Center in Lawrence, Kansas for FY 2002. This grant was not part of the agency budget request submitted in the fall of 2001 and was not discussed during the regular appropriations process earlier in the legislative session. Appropriating a special grant in this manner would allow it to avoid the scrutiny of the budget process that should determine its priority relative to other worthy projects and programs. The bill does not explain the purpose of this grant or the outcomes expected by this program. In short, the Legislature appears to have awarded a non-competitive grant for an unstated or unknown reason. Although the efforts of this center may be worthy of funding, this is not the legitimate means of evaluating or assessing this issue. Because this special treatment is unwarranted, I veto this section.

Department on Aging

Senior Pharmacy Outreach Program

Sections 5(a) and 5(b) have been line-item vetoed in their entirety.

These sections appropriate \$600,000 from the State General Fund for the Senior Pharmacy Outreach Program. The purpose of the program would be to identify and determine which prescription drug plans, whether state-funded or provided through a pharmaceutical company, would give elderly Kansans the best coverage. The funding would cover the cost of one employee at each Area Agency on Aging and one non-FTE unclassified permanent position at the Department on Aging. Although I agree with the need for this

service, a new program with this funding is not necessary to provide it. Individual case workers at the Area Agencies on Aging should all be trained to perform this service. The Department on Aging can fund this training through its existing pharmacy assistance program and by securing grants through the charitable trust programs of the pharmaceutical companies. Therefore, I veto this section.

Commission on Veterans' Affairs

Persian Gulf War Health Initiative

The portion of Section 4(a) that reads as follows has been line-item vetoed:

Operating expenditures—Persian Gulf War health initiative program
For the fiscal year ending June 30, 2003..... \$75,000

Provided, That no expenditures shall be made from the operating expenditures—Persian Gulf War health initiative program account if 2002 **House Bill No. 2770** is enacted into law: *Provider further*, That no expenditures shall be made during fiscal year 2003 from the operating expenditures—Persian Gulf War health initiative program account unless the Kansas commission on veterans affairs has first presented a detailed budget for such expenditures to the legislative budget committee.

The \$75,000 is intended to fund staff and operating expenses for the continuation of surveys of Persian Gulf War veterans. Over the last five years, a total of \$389,565 has been expended on this initiative, Kansas funded the Persian Gulf War study published in the November 15,2000 *Journal of Epidemiology*. Results were made available to Kansas Gulf War veterans and to the federal government. The State of Kansas is committee to issues concerning all veterans, and with the completion of the study and publication of the results, the state's limited resources must now be directed to the benefit of all its veterans. I will direct the Kansas Commission on Veterans' Affairs to ensure Persian Gulf War veterans receive timely assistance in filing claims for services with the Federal Veterans Administration.

Department of Human Resources

Unemployment Insurance Federal Funds

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

As part of the President's Economic Stimulus Package, the State of Kansas will receive \$78.0 million in funding for its Unemployment Insurance Program. These funds will be deposited in the Kansas Unemployment Insurance Trust Fund and may be used for extended benefits under current appropriation authority. Monies for administration of the program would be available for expenditure by the Kansas Department of Human Resources if the State Finance Council increases the expenditure limitation on that portion of the fund. However, this section of the bill would not allow the State Finance Council to take action to release these administrative monies. As a result, this provision would prevent the funds from being used until the next legislative session. Therefore, I find it necessary to veto this restriction.

Board of Regents

Vocational Education EDIF Funding

The portion of Section 20(a) that reads as follows has been line-item vetoed:

Vocation education capital outlay aid
For the fiscal year ending June 30, 2003..... \$135,000
Postsecondary aid for vocational education
For the Fiscal year ending June 30, 2003..... \$323,383
Technology innovation and internship
For the Fiscal year ending June 30, 2003..... \$10,000

Although these provisions may fund worthy causes, over-reliance on EDIF funding jeopardizes flexibility for future governors and legislators.

Internal State General Fund Transfers

Section 20(e) has been line-item vetoed in its entirety.

In my original budget recommendations to the 2002 Legislature, I proposed adding a provision that would allow the Board of Regents, with the approval of the Director of the Budget, to transfer State General Fund dollars between institutions of higher education. The purpose of this proviso is to facilitate the movement of funds within the Regents system, especially as the universities function under the new concept of an operating grant in FY 2003. This section nullifies that proviso, which has the effect of taking away the flexibility of moving funds to where they are needed most. Other state agencies have the authority to transfer funds between agencies within their system, such as the Department of Corrections, the Juvenile Justice Authority, and the Department of Social and Rehabilitation Services. Because the Director of the Budget's approval constitutes a check on the Board's use of this proviso, I believe the Board of Regent's should have this authority as well. For these reasons, I veto this section.

All Agencies

Prohibition on Furloughs

Section 28 has been line-item vetoed in its entirety.

This section would effectively prevent state agencies from laying off or furloughing classified state employees during FY 2002 and FY 2003 because of a lack of funding, except when the Director of Budget has certified to me under K.S.A. 75-6704 that the unencumbered ending balance in the State General Fund is less than \$100.0 million. I veto this provision as an unreasonable intrusion on the executive branch responsibility of state agencies to manage their budgets within the constraint that will already be imposed on them by reduced funding levels. To outline in an appropriations bill specific measures that agencies must follow, such as leaving vacant positions unfilled and implementing management efficiencies, represents micro-managing at its worst. Every agency must have the flexibility to manage the significant funding reductions in the budget passed earlier this session. The provision is also unnecessary because agencies would very likely make every effort to avoid layoffs and furloughs.

Kansas Sentencing Commission

Section 12 has been line-item vetoed in its entirety.

In our current tight fiscal situation, it seems imprudent to add positions not necessary to provide essential services to Kansans.

BILL GRAVES
Governor

Dated May 31, 2002

Veto Sustained

The Senate having adjourned sine die, there were no opportunities for the members to reconsider the line item vetoes on **House Substitute for SB 363** and the line item vetoes were sustained.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

