

Journal of the House

SIXTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, May 20, 2005, 10:00 a.m.

The House met pursuant to **HCR 5020** with Speaker Mays in the chair.

Reps. Davis, Dillmore, Edmonds, Gatewood, Hawk, Horst, Kiegerl, Loyd, Newton, Novascone, Sawyer, Showalter and Shultz were excused on excused absence by the Speaker.

MESSAGES FROM THE GOVERNOR

HB 2109, HB 2320, HB 2399 approved on May 5, 2005.

Also, **HB 2108, HB 2116, HB 2253, HB 2262, HB 2338, HB 2386, HB 2537** approved on May 9, 2005.

Also, **HB 2026; S. Sub. for HB 2228** approved on May 11, 2005.

Also, **S. Sub. for HB 2037; Sub. HB 2261; HB 2299, HB 2308** approved on May 12, 2005.

Also, **HB 2314; Sub. HB 2457; S. Sub. for HB 2480; HB 2512** approved on May 13, 2005.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **S. Sub. for HB 2507**, An act providing for appointment of the legislative counsel; amending K.S.A. 46-1222 and repealing the existing section; also repealing K.S.A. 46-1223, was received and read.

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 **S. Sub. for HB 2507**.

One fundamental principle of representative democracy is that minority rights must be protected, especially when majorities are powerful. Legislative rules provide some protection for minority voices, as does the separation of powers. In the regular legislative session, majorities can govern, but their bills are subject to the executive's veto.

Within the legislative branch of government, the Legislative Coordinating Council is charged with serving the interests of all Kansas citizens while the legislature is out of session. Therefore, it is important that all of the elected representatives who serve as members of the Legislative Coordinating Council have an effective voice in the process.

If enacted into law, **S. Sub. for HB 2507** would undermine the ability of minority-party representatives on the Legislative Coordinating Council to affect some crucial decisions. In that the council represents the Legislature as a whole, and by extension the entire Kansas citizenry, minority-party rights must be vigorously protected; otherwise, many citizens will go unrepresented by a body that has substantial policy-making authority.

With these considerations in mind, I must veto **S. Sub. for HB 2507**.

KATHLEEN SEBELIUS
Governor

Dated: May 16, 2005

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **S. Sub. for HB 2482**, An act making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2004 Supp. 82a-953a, section 150 of 2005 Senate Bill No. 225, and section 187 of 2005 Senate Bill No. 225, and repealing the existing sections; also repealing K.S.A. 2004 Supp. 82a-953a, as amended by section 186 of 2005 Senate Bill No. 225, was received and read.

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 return **S. Sub. for HB 2482** with my signature approving the bill, except for the item enumerated below.

Social and Rehabilitative Services

Section 9(p) that reads as follows has been line-item vetoed:

"During the fiscal year ending June 30, 2006, no moneys paid by the department of social and rehabilitation services from the mental health and retardation services aid and assistance of the state general fund shall be expended by the entity receiving such moneys to pay membership dues and fees to any entity that does not provide the department of social and rehabilitation services, the legislative division of post audit, or another state agency with access to its financial records upon request for such access."

I veto Section 9(p) of **S. Sub. for HB 2482**. This proviso would prohibit moneys paid from the mental health and retardation services aid and assistance account from being used to pay membership dues or fees to any entity, unless that entity opened its financial records to the state upon request. This proviso represents an unreasonable government intrusion into the finances of private organizations, and it would expose these organizations' financial records in their entirety, not just those that pertain to state business. Such a requirement goes well beyond any reasonable use of government power.

KATHLEEN SEBELIUS
Governor

Dated: May 16, 2005

MESSAGE FROM THE GOVERNOR

The State of Kansas has a clear public interest in slowing the rate of aquifer depletion in western Kansas, in restoring a more adequate flow to the Arkansas River, and in enhancing public recreation to diversify rural economies.

Acquiring the Circle K Ranch serves all three of these interests, which is why I sought the budget authority to acquire this valuable property. The natural resources of our state are precious and often at risk. As governor, I must be a strong steward of these resources, to insure their wisest possible use.

I look forward to working with the Legislature and all affected interests to make sure that Kansas acts in a responsible and far-sighted way as we address all the issues that surround the acquisition of the Circle K Ranch.

KATHLEEN SEBELIUS
Governor

Dated: May 16, 2005

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House proceeded to reconsider **S. Sub. for HB 2507**, An act providing for appointment of the legislative counsel; amending K.S.A. 46-1222 and repealing the existing section; also repealing K.S.A. 46-1223.

The Governor's objection of **S. Sub. for HB 2507** having been read May 20, (see this Journal) the question being, shall the bill be passed notwithstanding the Governor's veto?

On roll call, the vote was: Yeas 75; Nays 37; Present but not voting: 0; Absent or not voting: 13.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Dahl, DeCastro, Decker, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Haylett, Hill, C. Holmes, M. Holmes, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Siegfried, Sloan, Swenson, Vickrey, Watkins, Weber, Wilk, Yoder, Yonally.

Nays: Ballard, Burroughs, Carlin, Crow, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Grant, Henderson, Henry, Holland, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McKinney, Menghini, M. Miller, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, B. Sharp, Storm, Svaty, Thull, Treaster, Ward, Williams, Winn.

Present but not voting: None.

Absent or not voting: Davis, Dillmore, Edmonds, Gatewood, Hawk, Horst, Kiegerl, Loyd, Newton, Novascone, Sawyer, Showalter, Shultz.

A two-thirds majority of the members elected to the House not having voted in favor of the bill over the Governor's veto, the notion did not prevail, the bill did not pass, and the veto was sustained.

CONSIDERATION OF VETOED BILLS

The Governor's objection to **S. Sub. for HB 2482** having been read May 20 (see this Journal) the time arrived for reconsideration of the line-item Section 9 (p) of **S. Sub. for HB 2482**, An act making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2004 Supp. 82a-953a, section 150 of 2005 Senate Bill No. 225, and section 187 of 2005 Senate Bill No. 225, and repealing the existing sections; also repealing K.S.A. 2004 Supp. 82a-953a, as amended by section 186 of 2005 Senate Bill No. 225.

There was no motion to reconsider. The Chair ruled the line item had been reconsidered and the veto sustained.

MESSAGE FROM THE SENATE

Announcing the Senate herewith transmits the veto message from the Governor on **SB 107**, An act concerning the employment security law; relating to the charging of benefit payments; amending K.S.A. 2004 Supp. 44-710 and repealing the existing section, which was received on April 8, 2005 and was read before the Senate on April 27, 2005.

Message to the Senate of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **SB 107**, which relates to charges to base period employer's unemployment insurance accounts, when the former employee was a part-time employee.

My administration has recently been notified by the United States Department of Labor that **SB 107** would place the Kansas unemployment insurance program out of conformity with federal law. The Federal Unemployment Tax Act, (FUTA), and the State's unemployment insurance act work conjunctively to allow Kansas employers substantial credits against the FUTA tax.

If the state's program is out of conformity, Kansas employers are in danger of losing these valuable tax credits. This could mean an additional \$405.8 million in federal taxes and \$42.9 million in state taxes for Kansas employers this year. Therefore, to protect Kansas employers, I must veto **SB 107**.

I recommend that the issues outlined in **SB 107** be brought before the Employment

Security Advisory Council for review and recommendation to ensure that any future changes in this area of the state's unemployment insurance act are in conformity with federal statutes.

KATHLEEN SEBELIUS
Governor

Dated: April 8, 2005

There being no motion to reconsidered the veto on **SB 107**, the President ruled the veto sustained.

MESSAGE FROM THE SENATE

Announcing passage of **HB 2518**, as amended by **S. Sub. for HB 2518**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2518**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Neufeld, the House concurred in Senate amendments to **S. Sub. for HB 2518**. An act concerning the Kansas national guard; providing for certain death benefits; making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; amending K.S.A. 75-3713b and section 47 of 2005 Senate Substitute for House Bill No. 2482 and repealing the existing sections.

On roll call, the vote was: Yeas 103; Nays 8; Present but not voting: 0; Absent or not voting: 14.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, DeCastro, Decker, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, George, Goico, Grange, Grant, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peterson, Phelps, Pilcher-Cook, Powell, Roth, Ruff, Ruiz, Schwartz, B. Sharp, S. Sharp, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Dahl, Faber, Gordon, Judy Morrison, Peck, Pottorff, Schwab, Winn.

Present but not voting: None.

Absent or not voting: Davis, Dillmore, Edmonds, Gatewood, Hawk, Horst, Kiegerl, Loyd, Newton, Novascone, Powers, Sawyer, Showalter, Shultz.

PROTEST

MR. SPEAKER: Pursuant to Article 2, Section 10, of the constitution of the State of Kansas, I protest the passage of **S. Sub. for HB 2518**.

I am in favor of taking care of this extremely important group of individuals who are protecting our freedom. \$250,000 is certainly a minimal amount in exchange for a life, but that doesn't justify passing bad legislation. Our responsibility to our constituents is not to expose them and the State to an unquantified expense or liability. This is irresponsible legislation.

It is my understanding that there is a prefiled bill in which the State would pay for insurance policies for the National Guardspeople who are serving our State and Country. This makes more sense in terms of fiscal responsibility while assisting the families of those that give their lives. I would support this legislation and support making it retroactive for those who may face tragedy in the months before we return to session. Then we will thoroughly discuss and pass good, responsible legislation.

To expose the State to the liability presented in this bill is not prudent legislation. I cannot support this.—LANA GORDON, DONALD L. DAHL, JUDY MORRISON, JOANN POTTORFF, VIRGIL PECK, JR.

REPORT ON ENGROSSED BILLS

Sub. HB 2512 reported correctly engrossed May 1, 2005.

Sub. HB 2261 reported correctly engrossed May 2, 2005.

S. Sub. for HB 2482 reported correctly engrossed May 3, 2005.

REPORT ON ENROLLED BILLS

HB 2108, HB 2116, HB 2253, HB 2262, HB 2338, HB 2386, HB 2537 reported correctly enrolled, properly signed and presented to the governor on May 2, 2005.

Also, **HB 2026; S. Sub. for HB 2037; S. Sub. for HB 2228; Sub. HB 2261; HB 2299, HB 2308, HB 2314; Sub. HB 2457; S. Sub. for HB 2480; S. Sub. for HB 2482; S. Sub. for HB 2507; Sub. HB 2512** reported correctly enrolled, properly signed and presented to the governor on May 6, 2005.

REPORT ON ENROLLED RESOLUTIONS

HR 6033, HR 6035, HR 6037, HR 6038 reported correctly enrolled and properly signed on May 3, 2005.

Also, **HCR 5020** reported correctly enrolled and properly signed on May 6, 2005.

The hour for final adjournment having arrived, Speaker Mays said, "By virtue of the authority vested in me, as Speaker of the House of Representatives of the 2005 session, I do now declare the House adjourned sine die."

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

