

Journal of the House

SIXTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, June 1, 2011, 10:00 a.m.

The House met pursuant to **SCR 1609** with Speaker O'Neal in the chair.

Reps. Aurand, Bollier, Boman, Brown, Bruchman, Carlin, Cassidy, Collins, Crum, Donohoe, Goico, Grant, Hayzlett, Hedke, Hineman, Kelley, Kelly, Kiegerl, Kleeb, Knox, McCray-Miller, Mosier, Moxley, Rhoades, Roth, Schwab, Seiwert, Slattery, Wetta, Williams and B. Wolf were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,
Today we gather for sine die,
which otherwise might be known as sign or die!
As we look back over the session
we first want to thank You for Your faithfulness.
We have sought Your wisdom and direction
and hopefully made every effort to follow that.
Some of the decisions were easy to make,
some were heart-wrenching and painful.
Secondly I want to give thanks for these dedicated leaders
who have worked hard and long to make decisions
to make a better Kansas.
With some of the decisions they are pleased,
with others they might still be struggling.
Give them a sense of peace in knowing
They did the best they could.
Thank you for understanding families that
supported them in being absent from the home
to be here working.
Thirdly, I pray for Kansans around the state.
In the upcoming months,
many of them will have to make major adjustments
due to the resolutions passed here.
Give them grace and wisdom in making those changes.
When it is all said and done,
please find us faithful in doing all that we could
To feed the hungry,

*give drink to the thirsty,
care for the stranger,
clothe the homeless,
and serve those in need.*
*For in doing this for the least of our brothers,
we did it for You.*
(Matthew 25:37-40)
In Christ's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Grange.

MESSAGES FROM THE GOVERNOR

HB 2020, HB 2076, HB 2119; S. Sub. for HB 2133; Sub. HB 2135; HB 2195, HB 2240; Sub. HB 2271, HB 2282, HB 2392 approved on May 12, 2011.

S. Sub. for HB 2049 approved on May 18, 2011.

HB 2010; S. Sub. for HB 2071; HB 2191, HB 2312 approved on May 19, 2011.

HB 2015, HB 2054, HB 2075; S. Sub. for HB 2080; HB 2139, HB 2182; S. Sub. for HB 2194; HB 2336 approved on May 25, 2011.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **S. Sub. 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 and read.

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 **S. Sub. for HB 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.

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.

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.

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.

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.

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.

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.

SAM BROWNBACK
Governor

Dated: May 27, 2011

MESSAGE FROM THE GOVERNOR

May 25, 2011

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

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

EXECUTIVE ORDER NO. 11-09
Conditional and Temporary Relief from Motor Carrier
Rules and Regulations

SAM BROWNBACK
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

MESSAGE FROM THE GOVERNOR

May 26, 2011

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

EXECUTIVE ORDER NO. 11-10
Conditional and Temporary Relief from Healing Arts
Act Rules and Regulations

SAM BROWNBACK
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

MESSAGE FROM THE GOVERNOR

May 31, 2011

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

EXECUTIVE ORDER NO. 11-11
Conditional and Temporary Relief from Kansas Banking Code

SAM BROWNBACK
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

CONSIDERATION OF VETOED LINE ITEMS

The governor's line item objections to **S. Sub. for HB 2014** having been read (see this Journal, pp. 1662-1664), the time arrived for reconsideration of **S. Sub. 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.

There was no motion to reconsider the line items in Section 26, Section 108(e), Section 108 (f), portion of Section 111(a), and Section 175. The chair ruled the line items had been reconsidered and the vetos sustained.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Kuether the House proceeded to reconsider the line item veto in Section 115(a) and a portion of Section 143(a) of **S. Sub. for HB 2014** (see this Journal, p. 1664), 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..

The Governor's objection of the line item having been read, the question being, shall the line item be passed notwithstanding the Governor's veto?

On roll call, the vote was: Yeas 50; Nays 44; Present but not voting: 0; Absent or not voting: 31.

Yeas: Alford, Arpke, Ballard, Bethell, Billinger, Bowers, Brookens, Burroughs, Calloway, Colloton, Davis, Dillmore, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Gonzalez, Gordon, Gregory, Henderson, Henry, Hill, C. Holmes, Kuether, Lane, Loganbill, Mah, Meier, Pauls, Peterson, Phelps, Pottorff, Proehl, Ruiz, Schroeder, Shultz, Sloan, Spalding, Swanson, Tietze, Trimmer, Victors, Ward, Winn, K. Wolf, Wolfe Moore, Worley.

Nays: Brunk, Burgess, Carlson, DeGraaf, Denning, Garber, Goodman, Grange, Grosserode, Hermanson, Hildabrand, Hoffman, M. Holmes, Howell, Huebert, Johnson, Kerschen, Kinzer, Landwehr, LeDoux, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Powell, Prescott, Rubin, Ryckman, Scapa, Schwartz, Siegfried, Smith, Suellentrop, Tyson, Vickrey, Weber.

Present but not voting: None.

Absent or not voting: Aurand, Bollier, Boman, Brown, Bruchman, Carlin, Cassidy, Collins, Crum, Donohoe, Goico, Grant, Hayzlett, Hedke, Hineman, Kelley, Kelly, Kiegerl, Kleeb, Knox, McCray-Miller, Mosier, Moxley, Rhoades, Roth, Schwab, Seiwert, Slattery, Wetta, Williams, B. Wolf.

A two-thirds majority of the members elected to the House not having voted in favor of the line item over the Governor's veto, the motion did not prevail, the line item veto did not pass.

EXPLANATION OF VOTE

MR. SPEAKER: Vetoing state support for the arts in Kansas is not about fiscal responsibility. It is in fact a job-killing veto, especially in rural areas. It is not about returning to “core” functions of government. Governments have supported the arts since governments began, because it is important for the arts to flourish. How will we attract employers here when our Governor delivers a message that Kansas is too backward to support quality of life in this state? This veto makes Kansas the laughing stock of the nation. I vote yes to override the veto on **S. Sub. for HB 2014**. It is what the people of Kansas want.-- ANN E. MAH

INTRODUCTION OF GUESTS

Rep. Vickery introduced members of the Louisburg High School 4A State Championship football team and welcomed them to the House.

APPOINTMENT OF HOUSE REDISTRICTING COMMITTEE

Speaker O'Neal announced the following appointments: Rep. O'Neal, chair; Rep. Aurand, vice-chair; Reps. Brown, Brunk, Carlson, Kinzer, Knox, Landwehr, Mast, Patton, Powell, Schroeder, Schwab, Schwartz, Suellentrop, Tyson and Weber. Rep. Davis, Ranking Minority; Reps. Grant, Kuether, Pauls, Peterson and Ward.

**OFFICE OF THE GOVERNOR
STATE OF KANSAS
CERTIFICATE OF APPOINTMENT**

I, SAM BROWBACK, Governor of the State of Kansas, hereby appoint and commission Trent LeDoux as State Representative, District 50, and authorize this appointee to discharge the duties of this office upon fulfilling all legal requirements.

Signed this 24th day of May, 2011.

SAM BROWBACK
Governor

**STATE OF KANSAS
OFFICE OF
SECRETARY OF STATE**

I, KRIS KOBACH, Secretary of State of the State of Kansas, do hereby certify that Trent LeDoux was appointed by the Governor effective May 24, 2011, for the unexpired term Fiftieth District of the House of Representatives, to fill the vacancy created by the death of Rocky Fund.

IN TESTIMONY WHEREOF, I hereunto subscribed my name and caused to be affixed my official seal this 24th day of May, A.D. 2011.

KRIS KOBACH
Secretary of State

Speaker O'Neal welcomed Rep. LeDoux to the House of Representatives.
The House is now organized with 125 members.

REPORT ON ENGROSSED BILLS

S. Sub. for HB 2014; HB 2015, HB 2054; S. Sub. for HB 2080; HB 2139, HB 2336 reported correctly re-engrossed, May 16, 2011.

Also, **HB 2075** reported correctly engrossed, May 17, 2011.

Also, **HB 2182** reported correctly re-engrossed, May 18, 2011.

REPORT ON ENROLLED BILLS

HB 2010; S. Sub. for HB 2049; S. Sub. for HB 2071; Sub. HB 2191; HB 2312 reported correctly enrolled, properly signed and presented to the Governor on May 13, 2011.

S. Sub. for HB 2014; HB 2015, HB 2054, HB 2075; S. Sub. for HB 2080; HB 2139, HB 2182; S. Sub. for HB 2194; HB 2336 reported correctly enrolled, properly signed and presented to the Governor on May 20, 2011.

The hour for final adjournment having arrived, Speaker O'Neal said, "By virtue of the authority vested in me, as Speaker of the House of Representatives of the 2011 session, I do now declare the House adjourned sine die."

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

