

# Journal of the Senate

SEVENTY-FIFTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Friday, June 1, 2012, 10:00 a.m.

As provided by **SCR 1620**, the Sine Die Session of the regular 2012 Kansas Senate was called to order by President Stephen Morris.

The roll was called with thirty-seven senators present.

Senators Kelsey, Longbine and Steineger were excused.

The President introduced Senator Steve Abrams who delivered the invocation.

The Pledge of Allegiance was led by President Stephen Morris.

## REPORT ON ENGROSSED BILLS

**SB 11; H Sub for SB 60**; reported correctly engrossed May 19, 2012.

**H Sub for SB 40; SB 155; H Sub for SB 294, H Sub for SB 434** reported correctly engrossed May 21, 2012.

Also, **H Sub for SB 425** correctly re-engrossed May 21, 2012.

## REPORT ON ENROLLED BILLS

**SB 11; H Sub for SB 40; SB 155, SB 250, SB 273; Sub SB 283; H Sub for SB 287; SB 304; Sub SB 307; SB 314; H Sub for SB 425** reported correctly enrolled, properly signed and presented to the governor on May 22, 2012.

**H Sub for SB 60, H Sub for SB 294, H Sub for SB 434** reported correctly enrolled, properly signed and presented to the governor on May 25, 2010.

**SCR 1620** reported correctly enrolled, properly signed and presented to the Secretary of State on May 25, 2010.

## MESSAGE FROM THE GOVERNOR

**House Substitute for SB 79; SB 83; House Substitute for Substitute SB 148; House Substitute for SB 160; SB 300, SB 306, SB 334** approved May 21, 2012,

**SB 11; House Substitute for SB 40; SB 155, SB 250, SB 273; Substitute for SB 283; House Substitute for SB 287; SB 304; Substitute for SB 307; SB 314; House Substitute for SB 425** approved on May 25, 2012.

**House Substitute for SB 434** approved May 31, 2012.

**MESSAGE FROM THE HOUSE**

Announcing the adoption of **SCR 1620**.

The House concurs in Senate amendments to **Senate Substitute for HB 2382**.

The House adopts the Conference Committee report on **Senate Substitute for HB 2597**.

The House announces the failure of a motion to concur in Senate amendments to **Senate Substitute for HB 2619** and requests return of the bill.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Hensley and Morris introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **SR 1885**—

A RESOLUTION congratulating and commending First Assistant Revisor  
James Arthur Wilson III on his retirement.

WHEREAS, James Arthur Wilson III (Jim) retired from the Revisor of Statutes office this year after 40 years of service with the legislature; and

WHEREAS, Jim is a lifelong Kansan, growing up in Iola, and then living in Manhattan, Lawrence and Topeka; and

WHEREAS, Jim served in the United States Army National Guard for 6 years; and

WHEREAS, Jim earned his Bachelor of Science degree in political science from Kansas State University and his Juris Doctor degree from the University of Kansas; and

WHEREAS, Jim married his wife, Grace, in 1970. They have a son, Matt Wilson, married to Melanie, and two grandchildren, Alex and Vivian; and

WHEREAS, Jim started working for the Revisor of Statutes office in 1972. In 1974 he was promoted to Assistant Revisor, in 1977 he was promoted to Senior Assistant Revisor, and in 1996 he was promoted to First Assistant Revisor; and

WHEREAS, Throughout his career, Jim was an incredible source of information and knowledge to the Revisor's office and the legislature about the history of the legislature and Kansas government. He mentored many young attorneys in the Revisor's office; and

WHEREAS, Jim staffed many different committees over his career in serving the legislature, but was best known for his work with the budget committees. Over his career he drafted hundreds of budget bills and countless provisos; and

WHEREAS, Jim is known for his good natured humor, patience and grace in working long nights on producing the budget bills every session and for his ability to work with legislators in drafting complicated budget bills in a manner that accomplishes their goals. Jim closed every email he sent with a hearty "*Ad astra*": Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we commend, congratulate and thank James Arthur Wilson III for his long and successful career serving the legislature with the Revisor of Statutes office; and

*Be it further resolved:* That the Secretary of the Senate shall send three enrolled copies of this resolution to James Arthur Wilson III.

On emergency motion of Senator Hensley **SR 1885** was adopted unanimously.

Senator Hensley introduced and congratulated James Wilson III upon his retirement from the Revisor of Statutes office after 40 years of service with the legislature. His wife, Mary was also introduced. The Senate acknowledged his achievement with a standing ovation.

**MESSAGE FROM THE GOVERNOR**

MAY 31, 2012

Message to the Senate of the State of Kansas:

I want to thank all Kansas legislators and particularly, the members of the House Appropriations Committee and the Senate Ways and Means Committee, for producing a budget that for the first time in many years meets the statutory requirement of maintaining a 7.5% ending balance. Our state has gone through an incredible transition in just two years: from a projected \$500 million deficit to putting nearly half a billion dollars in the bank. A \$1 billion swing can only occur when we commit ourselves to shrinking the footprint of state government and pursuing policies that grow the economy. I look forward to continuing this prosperous path in the fiscal years to come.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return House Substitute for Senate Bill No. 294 with my signature approving the bill, except for the items enumerated below.

**Behavioral Sciences Regulatory Board**

**Limitation on Expenditures**

That portion of Section 12(a) that reads as follows has been line-item vetoed:

*“Provided, however,* That expenditures from the behavioral sciences regulatory board fee fund for the fiscal year ending June 30, 2012, for leased office space shall not exceed \$14.00 per square foot.”

That portion of Section 12(b) that reads as follows has been line-item vetoed:

*“Provided, however,* That expenditures from the behavioral sciences regulatory board fee fund for the fiscal year ending June 30, 2013, for leased office space shall not exceed \$14.00 per square foot.”

Oversight of leased office space is the domain of the Department of Administration. To the extent that we can centrally manage leased space, we can manage our operating costs. These provisions would arbitrarily provide an exception not afforded other agencies and supersede the management function properly placed in the executive branch so I find it necessary to veto them both.

**Department of Health & Environment—Environment**

**Local Environmental Protection Programs**

That portion of Section 84(c) that reads as follows has been line-item vetoed:

“Local environmental protection program.....\$800,000

*Provided*, That any unencumbered balance in the local environmental protection program account in excess of \$100 as of June 30, 2012, is hereby reappropriated for fiscal year 2013.”

The appropriation of \$800,000 from the State Water Plan Fund (SWPF) for the Local Environmental Protection Programs would increase funding beyond my budget recommendations for FY 2013. Funding for this program was not recommended by the Kansas Water Authority nor the Department of Health and Environment, and was not included in my budget. The program was started in the early 1990s for the purpose of providing local governments with technical assistance and grant funds in order to establish environmental programs specifically suited for local priorities. Once the programs were established, the intent was to discontinue the state funding. The addition of \$800,000 in expenditures from the SWPF for FY 2013 would result in a negative balance of approximately \$565,000 in this state fund. Therefore, I hereby line-item veto this provision.

**Department of Education**

**Uniform Accounting Act for Schools**

That portion of Section 42(a) that reads as follows has been line-item vetoed:  
“Operating expenditures (including official hospitality).....\$50,000”

The 2011 Legislature enacted the Uniform Financial Accounting and Reporting Act for school districts to report expenditures to the Department of Education. This funding was not originally included in my FY 2012 budget recommendations and I believe the agency can develop and maintain this system which is similar to current procedures within current resources. I find it necessary to veto this appropriation.

**Department of Revenue**

**Fee Sweeps**

Sections 75(h) and 75(i) have been line-item vetoed in their entirety.

At the direction of the Legislature, the Department of Revenue is now more heavily dependent on fee income for its operations and two of the three fee sweeps included in the appropriations bill are insupportable. For these two, the cash on hand on the date specified will not be sufficient to make such sizable transfers and the agency would not be left with enough funds to function. I am leaving one of the sweeps the agency can manage. The other two sweeps go too far, and I therefore must veto them.

**Department of Education**

**Mentor Teacher Bonuses**

That portion of Section 88(a) that reads as follows has been line-item vetoed:  
“Mentor teacher program grants.....\$484,337”

I proposed educator quality and mentoring reforms as part of my overall education policy reform for consideration this session, however, the Legislature did not adopt most of these initiatives. For a mentoring bonus program to work properly, it must be done in concert with education reform policy. Without those reforms we fail our educators and their students. Therefore I find it necessary to veto this appropriation and look forward to discussing with the Legislature next session how we can improve teacher performance through mentoring.

**Kansas Water Office**

**Water Resource Education**

That portion of Section 114(c) that reads as follows has been line-item vetoed:

“Water resource education..... \$40,000

*Provided*, That any unencumbered balance in the water resource education account in excess of \$100 as of June 30, 2012, is hereby reappropriated for fiscal year 2013.”

The appropriation of \$40,000 from the State Water Plan Fund for the Water Resource Education program would increase funding beyond my budget recommendations for FY 2013 and would also contribute to a negative balance of approximately \$565,000 in the State Water Plan Fund. Funding for this program was not recommended in my budget. Therefore, I hereby line-item veto this provision.

**Wichita Aquifer Storage**

Section 114(d) has been line-item vetoed in its entirety.

The additional appropriation of \$500,000 from the Expanded Lottery Act Revenues Fund (ELARF) for the Wichita Aquifer Recharge Project would increase funding beyond my budget recommendations for FY 2013. My FY 2013 budget recommendations included a \$500,000 appropriation from the State Water Plan Fund for the project that demonstrates an effective method to provide for long-term planning related to future water supplies. Furthermore, the use of the ELARF will have to be leveraged as part of a specific debt reduction and budget balancing strategy. Therefore, I hereby line-item veto this provision.

**State Fair Board**

**Enhanced Marketing**

Section 113(c) has been line-item vetoed in its entirety.

I included funds in the Department of Commerce budget for a study to examine the feasibility of changing the dates when our State Fair is held. Rather than finance this study, the money was shifted to the Fair for promotion. With the projected negative balance in the Economic Development Initiatives Fund and this change in plan, I veto

the funds. While it does not bring the EDIF into the black, it will be much closer.

**Department of Social & Rehabilitation Services and Department on Aging**

**FMS Fee for HCBS Providers**

Section 35(b) has been line-item vetoed in its entirety.

That portion of Section 35(l) that reads as follows has been line-item vetoed:  
“Mental health and retardation services aid and assistance.....\$91,429”

That portion of Section 36(a) that reads as follows has been line-item vetoed:  
“LTC — medicaid assistance — HCBS/FE.....\$99,634”

Section 122 has been line-item vetoed in its entirety.

The Financial Management System for Medicaid Home and Community Based Services providers was implemented in FY 2012 as required by the Center for Medicare & Medicaid Services. The system pays a \$115 per consumer per month fee to providers for administrative services. The 2012 Legislature appropriated a total of \$385,878 from the State General Fund in the above referenced sections to increase the fee to \$125 for the months from November 2012 to June 2012. This would require retroactive payments that would strain agency resources. No additional funding was approved to continue the increased rate in FY 2013. The agencies set the \$115 fee using a range derived from a study performed by an impartial contractor and by using comparisons with rates paid by other states. The rate is well above the national average and in my opinion is fair payment for services provided. I therefore find it necessary to veto these supplemental appropriations for FY 2012.

**Motor Vehicles**

**Limitations on Acquisitions**

Section 119 is vetoed in its entirety.

Agencies purchase vehicles for a variety of reasons and we have a process in place to ensure new purchases are not made unnecessarily. To ensure that agencies have the resources they need to get their work done, I veto this section of the bill.

**Kansas Bioscience Authority**

**Timing of Transfers from the State General Fund**

That portion of Section 156(d)(1) that reads as follows has been line-item vetoed:

*“During the fiscal years ending June 30, 2013, and June 30, 2014, the state treasurer shall make payments to the bioscience authority on July 15, October 15, January 15 and April 15 in equal installments, subject to the limitations established in subsection (h). If on such dates, during fiscal years 2013 and 2014, such*

*payments can not be made in equal amounts, the state treasurer shall make the payment in the amount of moneys that is available on such date and upon the next payment date, the state treasurer shall make the payment in an amount equal to the amount that is to be paid on that date plus any additional amount that is owed from a previous date. During the fiscal years ending June 30, 2015, and following fiscal years thereafter, the state treasurer shall make payments to the bioscience authority on July 15, October 15, January 15 and April 15 based on the certification provided by the secretary of revenue.”*

In recent years the state has had to delay its quarterly transfers to the Kansas Bioscience Authority from time to time, particularly the November amount, when the State General Fund was low on cash. This was done in cooperation with staff at the Bioscience Authority and was not done in a manner that was intended as punitive or harmful. Because we need to maintain our flexibility in managing the State General Fund cashflow, I veto this provision to require transfers on certain dates. This has the effect of leaving processes as they have been handled up to this point.

### **Moving Forward**

The needs are great, and the people of Kansas, particularly our children, depend on us to put our state on a path of economic growth and prosperity. We took a giant step in the right direction this year. I look forward to continuing to work with the Kansas Legislature to review areas where we can reduce the reach of state government, streamline agencies and programs and focus funding on the state's core responsibilities.

Again, I commend the Legislature for its work during the 2012 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

### **VETO SUSTAINED**

President Morris announced the time had arrived for reconsideration of the line item vetoes on **H Sub for SB 294**, An act making and concerning appropriations for fiscal years ending June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, for state agencies; authorizing and directing payment of certain claims against the state; authorizing certain transfers, capital improvement projects and fees imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2011 Supp. 2-223, 12-5256, 55-193, 72-8814, 74-50,107, 74-99b34, 75-2319, 76-775, 76-783, 76-7,107, 79-2964, 79-2978, 79-2979, 79-3425i, as amended by section 10 of 2012 House Bill No. 2557, 79-34,156, 79-34,171, 79-4227 and 82a-953a and repealing the existing sections.

No motion having been offered to reconsider, President Morris announced the Governor's line items vetoes on **H Sub for SB 294** were declared sustained.

As provided by **SCR 1620**, 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 2012 Session of the Kansas Senate adjourned Sine Die."

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#### MESSAGE FROM THE GOVERNOR

**House Substitute for Senate Bill No. 60** approved June 1, 2012.

#### MESSAGE FROM THE HOUSE

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

Senate Bills died in House Committees: **SB 5, SB 8, SB 13, House Substitute SB 35, SB 41, House Substitute SB 45, SB 51, SB 52, SB 58, Substitute SB 64, SB 69, Substitute SB 71, Substitute SB 81, SB 90, Substitute SB 92, SB 100, SB 108, SB 116, SB 126, SB 128, SB 133, SB 135, Substitute SB 138, SB 139, SB 182, SB 201, SB 223, Substitute SB 234, SB 267, SB 271, SB 276, SB 279, SB 281, SB 292, SB 293, SB 297, SB 302, SB 305, SB 324, SB 326, Substitute SB 327, SB 331, SB 335, SB 342, SB 348, SB 357, SB 358, SB 369, SB 371, SB 372, SB 375, SB 386, SB 395, SB 400, SB 404, SB 407, Substitute SB 412, SB 415, SB 419, SB 427, SB 431, Substitute SB 433, SB 436, SB 447, Substitute SB 449, SB 453, Substitute SB 459.**

Senate Concurrent Resolutions died in House Committees: **SCR 1606, SCR 1608.**

Senate Bills died on the Calendar: **House Substitute SB 46, House Substitute SB 104, SB 120, House Substitute SB 216, SB 261, SB 269, SB 274, House Substitute SB 275, SB 277, SB 288, SB 299, House Substitute SB 311, SB 379, SB 390, SB 438.**

Senate Bills died in Conference Committee: **House Substitute SB 28, House Substitute for Substitute SB 39, House Substitute SB 142, House Substitute SB 177, SB 257, SB 258, House Substitute SB 259, House Substitute SB 341, SB 394.**

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

