

Journal of the Senate

SEVENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, June 20, 2013, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with thirty-six senators present.
Senators Apple, Emler, LaTurner and Powell were excused.
Invocation by Father Don Davidson:

Almighty God, our heavenly creator, we have reached an end of this session. The time has come to rest, reflect and recuperate after many long meetings, joys and sorrows. In all things you have been present in this chamber of dedicated people, now we ask you to bless our legislators as they journey home. Bless their families and those who work with them. Give us grace to remain healthy and bring us in safety to new days ahead. In your good and gracious name we pray. Amen

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Francisco introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1771—

A RESOLUTION congratulating the 2013 University of Kansas women's track and field team on being named NCAA Team Champions.

WHEREAS, The University of Kansas women's track and field team won the 2013 NCAA Team Championship at the historic Hayward Field in Eugene, Oregon; and

WHEREAS, This is the seventh NCAA Championship for the University of Kansas track and field team and the first in program history for the women's team; and

WHEREAS, The Jayhawks also saw the program's first ever individual outdoor champion when team member Lindsay Vollmer won first place in the heptathlon; and

WHEREAS, The University of Kansas women finished the meet with 60 points, which was 16 points ahead of the second-place finisher, Texas A&M; and

WHEREAS, Members of the 2013 University of Kansas women's track and field team include Natali Bartnovskaya, Heather Bergmann, Sydney Conley, Paris Daniels, Diamond Dixon, Andrea Geubelle, Christen Guenther, Rhavean King, Alena Krechyk, Jessica Maroszek, Denesha Morris, Francine Simpson, Lindsay Vollmer and Taylor Washington; and

WHEREAS, The team coaches include Head Coach Stanley Redwine, Elisha Brewer, Ryan Hays, Tom Hays, Andy Kokhanovsky, Wayne Pate, Rose Richmond and Michael

Whittlesey; and

WHEREAS, Eleven of the 13 entries in the meet contributed to the team's scoring effort, including performances in long jump, triple jump, the 4X100 meter relay, the 200 meter, 4X400 meter relay, heptathlon, javelin, hammer throw, discus and pole vault: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the 2013 University of Kansas women's track and field team on winning the NCAA Team Championship. This amazing accomplishment is celebrated not only by the University of Kansas community but by the entire State of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide 24 copies of this resolution to Senator Francisco.

Guests introduced were Chris Howard and Mike Whittlesey.

The Senators honored them with a standing ovation.

On emergency motion of Senator Francisco **SR 1771** was adopted unanimously.

MESSAGE FROM THE GOVERNOR

Message to the Senate of the State of Kansas:

June 11, 2013

Enclosed herewith is Executive Directive No. 13-440 for your information.

Enclosed herewith is Executive Directive No. 13-441 for your information.

Sam Brownback
Governor

MESSAGES FROM THE GOVERNOR

SB 246 approved on June 7, 2013.

June 15, 2013

Message to the Legislature of the State of Kansas

I want to thank every member of the Kansas Legislature for your hard work, during the 2013 session. This two-year budget will provide state agencies and school districts a greater level of funding certainty, allowing them to extend their planning horizons and strengthen their focus on improving services. Having a strong ending balance for three straight years will help us weather the uncertainty of a federal government that continues to have major budget problems. Your commitment to fiscal responsibility will ensure every taxpayer dollar will be used in an effective and efficient manner.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Bill No. 171 with my signature approving the bill, except for the items enumerated below.

Department of Administration

Refund of Past FICA Payments for Medical Residents

Section 29(f) is vetoed in its entirety.

In my original budget I had recommended that from the state's share of FICA refunds originally made on behalf of medical residents, \$25.0 million be swept to the State

General Fund and that \$10.0 million of that be devoted to construction of a new medical education building for the Medical Center. The timing of the refunds has been much slower than ever anticipated and the state has not yet received its full share of the refunds from the Internal Revenue Service (IRS). We are going to pay the medical residents their share received to date, but I veto this sweep of the state's share so it does not occur prior to full settlement with the IRS.

Department of Corrections

Transfer of State Resources

Section 44(c), 44(d), 44(e), 44(f), 45(b) and 173(h) are vetoed in their entirety.

I have grave concerns about the impact of this budget on public safety. Eliminating the \$1.9 million in current year budget lapses and the sweep of \$750,000 from the Kansas Correctional Industries will allow the Department of Corrections to use these resources to soften the impact of their reduced funding and protect critical components of our corrections system.

Office of the Attorney General

Fee Sweeps to the State General Fund

Section 87(h), Section 87(i), Section 88(g), Section 88(h) and Section 88(i) have been line-item vetoed in their entirety.

The Court Cost Fund and the Medicaid Prosecution Revolving Fund receive money from various litigation settlements handled by the Attorney General in which the defendant is ordered to reimburse the state's litigation costs. Sometimes, the balance in these litigation recovery funds exceeds the actual cost of operating the state's litigation and, at those times, it is proper to remove the "excess" and place it in the State General Fund for other uses. The critical issue is not whether that is done but how and when. This approach provides stability and planning ability so the agency can operate the recovery litigation professionally and in a cost-efficient manner without worrying whether sufficient funds are available in the short-term to make payroll. Most importantly, it also ensures the state's recovery litigation is focused exclusively on obtaining just litigation outcomes and not on the need to generate immediate funds to pay the current bills. In addition, sweeping the money paid by Kansans who seek to permit to carry a concealed firearm pursuant to the Kansas Personal and Family Protection Act into the State General Fund transforms these dedicated permit fees into a general "gun tax" on Kansans who are exercising their Second Amendment Rights. For these reasons, I veto the sweeps that exceed my recommendations applied to the Attorney General's Office.

Department of Administration

Sweep of the Curtis State Office Building Maintenance Reserve Fund

Section 111(t) has been vetoed in its entirety.

A lease agreement with the Public Building Commission and the State of Kansas was executed upon construction and occupancy of the Curtis State Office Building. Within that contract and the bond documents issued on the construction of the building was a provision that the building's reserve fund would accrue a balance up to \$2.5 million. It is bond counsel's opinion that transferring cash from this fund would be a reportable material default to the Securities Exchange Commission and would hinder the state's

ability to issue future bonds related to NBAF, the KBI lab at Washburn and the Department of Agriculture's move to the Kansas State University campus. I therefore find it necessary to veto this provision.

Elimination of Vacant Positions

Section 111(w) and Section 112(s) have been vetoed in their entirety.

In FY 2010, agencies' headcounts totaled 23,957.98, excluding the Regents. In FY 2012, we drove that number down to 22,208.57. My administration remains committed to reducing the size of state government and we will continue those efforts in the next year. We went through a lengthy exercise last year to eliminate old vacant positions. Moreover, the language in these sections will drive agencies to spend more on overtime as they will be kept from filling positions open for only 120 days. In some locations, such as at Larned State Hospital and Topeka Correctional Facility, we face challenges in recruiting and retaining staff at critical agencies and this language does not grant them any flexibility. For these reasons, I veto these provisions and will continue to work with agencies to restructure them in a targeted and strategic manner.

Department of Commerce

Sweep of the Reimbursement and Recovery Fund

Section 123(l) and Section 124(j) are vetoed in their entirety.

The Reimbursement and Recovery Fund of the Department of Commerce is primarily used to finance the operations of America's Job Link Alliance (AJLA). AJLA is a consortium of state workforce agencies and program operators that collaborate to reduce costs in the development of workforce development software needs for member states. Sweeping the pooled resources from the Reimbursement and Recovery Fund in FY 2014 and FY 2015 would violate our obligation to those states and necessitate reimbursement to them, so I must veto both of these transfers.

University of Kansas Medical Center

Enrollment Management

Section 167(e) and 168(e) are vetoed in their entirety.

The University of Kansas School of Medicine campus in Salina was created to address the critical shortage of physicians, particularly in rural Kansas. This innovative medical education program is aimed at students with a strong desire to practice in rural areas. I understand the Legislature's concern that this program as well as the Wichita campus not be disproportionately impacted by budget cuts. According to the University of Kansas Medical Center (KUMC), the language in this provision will require undesirable reductions to its Wichita campus, while a veto will keep current student levels the same. KUMC has committed to me how they will manage their budget cuts if these provisions are removed. The Center will still impose a variety of operational changes to manage this funding loss:

Plan and impact if the Proviso is vetoed:

Student reductions (in Kansas City only):

- 20 Nursing students
- 5 Health Professions students
- 4 Residency (GME) positions
- 2 MD/PhD student positions

I therefore veto these constraints on the Medical Center’s management of its programs.

Department of Corrections

Budget for Corrections

Section 174 is vetoed in its entirety.

The Department of Corrections plays a key role in maintaining our state’s public safety. Because I consider it inadequate, I veto the FY 2015 budget and look forward to working with the 2014 Legislature in finding the Department sufficient resources to ensure public safety is not imperiled.

Kansas Water Office

Weather Modification

That portion of Section 193(c) that reads as follows has been line-item vetoed.

“Weather modification program..... \$100,000

Provided, That any unencumbered balance in the weather modification program account in excess of \$100 as of June 30, 2013, is hereby reappropriated for fiscal year 2014.”

Support for this program has declined at the local level and the ongoing drought in western Kansas has exacerbated the continued declines of the Ogallala Aquifer. In 2012, I signed into law policies that will provide greater opportunities to conserve and extend the life of the Aquifer, such as Local Enhanced Management Areas (LEMA). As a result, I encourage the use of future State Water Plan Fund dollars in support of LEMAs and other related conservation efforts.

Salary Cap

Limitations on Agency Operations

Section 199 and 200 are vetoed in their entirety.

I applaud the Legislature’s efforts to reduce the size and cost of state government. However, when salary restrictions are applied, they must be done so in a consistent manner, except when some inconsistency is justified. The language in these sections impacts agencies inconsistently and punishes those agencies that were working most diligently to drive down costs. Additionally, this policy restricts the ability of state agencies to best manage the reduced resources provided by this budget. While I veto these provisions, this action does not spend additional State General Fund resources.

Moving Forward

Public safety is unquestionably a core function of state government. The services provided by the Kansas Department of Corrections are a critical component of protecting our citizens. I will do everything I can to minimize the impact of the reduced funding on public safety. However, I ask that you carefully and thoughtfully consider whether or not this reduction was appropriate when you return.

The people of Kansas expect excellence in higher education. Our Regents system fuels the engine of our economy by providing a highly skilled workforce and nurturing the next generation of Kansas teachers, doctors, business people and others. I encourage you to spend the next several months examining university budgets more closely and working with their leadership teams and the Board of Regents to craft a shared vision for higher education in Kansas; a vision that you are confident both maintains our high

standard of excellence and uses resources efficiently.

Sam Brownback
Governor

VETO SUSTAINED

President Wagle announced the time had arrived for reconsideration of the veto on **SB 171**, AN ACT making and concerning appropriations for fiscal years ending June 30, 2013, June 30, 2014, June 30, 2015, June 30, 2016, June 30, 2017, and June 30, 2018, for state agencies; 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. 2012 Supp. 2-223, 12-5256, 55-193, 72-8814, 74-50,107, 74-8963, 74-99b34, 75-2319, 75-6702, 76-3,107, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-34251, 79-34,156, 79-34,171, 79-4227, 79-4804 and 82a-953a and repealing the existing sections.

No motion having been offered to reconsider, President Wagle announced the Governor's veto on **SB 171** was declared sustained.

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits a veto message from the Governor on **HB 2120**.

AN ACT concerning crimes, criminal procedure and punishment; relating to DNA evidence; relating to statute of limitations; relating to possession of a firearm during a drug felony; amending K.S.A. 2012 Supp. 21-2511, 21-5107, as amended by section 1 of 2013 House Bill No. 2252, 21-6403 and 21-6805 and repealing the existing sections, which was received on May 23, 2013 and was read before the House on May 24, 2013.

“Many concerns have been expressed regarding the constitutionality of **House Bill 2120**. Upon careful review, I agree the language in this legislation violates Article 15, Section 3 of the Kansas Constitution. However, I support the Legislature’s policy goal of permitting certain limited raffles for charitable purposes. As such, I encourage the Legislature to consider a constitutional amendment to accomplish this goal.

Pursuant to Article 2, Section 14(a) of the Constitution of the State of Kansas, I hereby veto **House Bill 2120**.”

There being no motion to reconsider **HB 2120**, the Speaker ruled the veto sustained. Announcing adoption of **SCR 1614**.

REPORT ON ENROLLED BILLS

SB 171 reported correctly enrolled, properly signed and presented to the Governor on June 6, 2013.

SR 1770 reported correctly enrolled, properly signed and presented to The Secretary of the Senate on June 4, 2013.

SCR 1614 reported correctly enrolled, properly signed and presented to the Secretary of State on June 6, 2013.

SR 1758, **SR 1771** reported correctly enrolled, properly signed and presented to the

Secretary of the Senate on June 20, 2013.

As provided by **SCR 1614**, Senator Bruce moved the Senate adjourn Sine Die. The motion prevailed.

President Wagle thereupon announced: “By virtue of the authority vested in me as President of the Senate, I now declare the 2013 Session of the Kansas Senate adjourned Sine Die.”

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks.*

DIANE MINEAR, *Secretary of the Senate.*

