

Journal of the Senate

SIXTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 26, 2021, 10:00 a.m.

As provided by **SCR 1613**, the Sine Die Session of the regular 2021 Kansas Senate was called to order by Vice President Rick Wilborn.

The roll was called with 39 senators present.

Senator Claeys was excused.

Invocation by Reverend Cecil T. Washington:

The Final Adjournment; The Leave To Go Home!

Romans 13:1-8, Matthew 25:1-13

Lord, as we gather today, we're coming back from a break, and we're looking at the conclusion of this session. Thank You for permitting us to serve, to serve You while serving others. Thanks for bringing us together, even though there were times we didn't appear to be together. Only You could create harmony when facing so many obstacles, so many grounds for discord. Thank You for Your faithfulness, Your patience and Your willingness to look beyond our faults to meet our needs.

As we now look to suspend the events in these halls, we'll turn toward other concerns that need our attention. But keep us mindful that we're not to adjourn from serving or representing You. For You said in Romans 13:1-9, that all authority comes from and is accountable to You, that there is no adjournment from the responsibility to love one another Lord.

The term "Sine Die" comes from the Latin sine, meaning "without" and die, meaning "day." We're coming now to a time of adjournment, without a specified day to come back together. In a like manner, Lord, we all face a final Sine Die, a final adjournment, looking forward to an unspecified day when You will dismiss us from our labors on this earth and prayerfully we'll be ready to come together with You. In the gospel of Matthew 25:1-13, You give us the parable of 10 that were facing their finish. Only half of them, were ready, ready for You to receive them.

Lord, after all is said and done, when we face our final sine die, we want to be ready! Bring us on home to be with You. I lift this prayer, in the precious Name of Jesus! Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SCR 1614**, **SCR 1615**, **HB 2056**.

Public Health and Welfare: **SB 315**.

MESSAGES FROM THE GOVERNOR

SB 39, SB 47, SB 60, SB 170 approved on May 17, 2021.

SB 78, SB 238 approved on May 19, 2021.

Enclosed herewith are Executive Directives No. 21-533 and No. 21-534 for your information. (May 11, 2021).

**MESSAGE FROM THE GOVERNOR
REGARDING VETO OF SENATE BILL 29**

May 20, 2021

We already know that the solution to provide health care for 165,000 Kansans, bring thousands of jobs to our state, save small businesses money, and inject millions into our economy is to expand Medicaid.

Junk insurance – which does not cover pre-existing conditions or provide consumer protections – is just that: “junk.” Signing this bill would cause more Kansas families to go bankrupt over medical bills. If the Legislature wants to get serious about improving access to health care, they should join 38 other states and the District of Columbia and pass Medicaid expansion. Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto **Senate Bill 29**.

LAURA KELLY
Governor

**MESSAGE FROM THE GOVERNOR
REGARDING SENATE BILL 159**

May 21, 2021

Senate Bill 159, this session’s omnibus budget bill, makes many important investments in our state. But as with many omnibus budget bills, not every appropriation included is necessary or appropriate. Therefore, pursuant to Article 2, Section 14(b) of the Constitution of the State of Kansas, I hereby return **Senate Bill 159** with my signature approving the bill, except for the item enumerated below.

\$500,000 from the State General Fund to the University of Kansas Medical Center for clinical trials on a COVID-19 treatment using MSCTC-0010 cells developed at the Midwest Stem Cell Therapy Center

Section 46(a) has been line-item vetoed in its entirety.

This section provides \$500,000 to the University of Kansas Medical Center to conduct clinical trials for a COVID-19 treatment using MSCTC-0010 cells developed at the Midwest Stem Cell Therapy Center. During debate on the Senate’s original budget, contained in **Substitute for Senate Bill 267**, an amendment to add this funding was wisely withdrawn. The medical experts who lead the research associated with this proviso have clearly and plainly communicated to the Legislature that such a clinical trial would not be realistic or even feasible given the timeframe and funding provided. A 2018 article in the Journal of the American Medical Association found that the average cost of a clinical trial is \$19 million, with the total cost of developing a new drug closer to \$2 to \$3 billion. Given those realities and the proven effectiveness of COVID-19 vaccines and treatments that are now widely available, we should focus our efforts on increasing the number of Kansans who are vaccinated so that we can prevent infections, severe illnesses, and deaths. We should listen to those with knowledge of how clinical

trials work when they tell us that the proposal outlined in this proviso is unrealistic and unneeded, and we should focus on saving lives by expediting vaccinations for as many Kansans as possible throughout the state.

LAURA KELLY
Governor

**MESSAGE FROM THE GOVERNOR
REGARDING VETO OF SENATE BILL 273
May 21, 2021**

The COVID-19 pandemic has presented many challenges for Kansas businesses over the last year, and my administration has been committed to doing all we can to support their continued pandemic recovery efforts through the Strengthening People and Revitalizing Kansas (“SPARK”) Taskforce. The SPARK process brings together business, legislative, and community leaders from across the state to collaborate on data-driven, innovative investments using federal relief dollars. All recovery initiatives should go through the transparent, federally compliant, bipartisan, and efficient process we have already established through the SPARK Taskforce. **SB 273** is well-intentioned, but it violates federal rules for the use of American Rescue Plan Act (“ARPA”) funds that prevent the state from placing conditions or requirements on local governments’ use of ARPA funds.

SB 273 also fails to comply with federal rules that prohibit using ARPA funds to resolve potential legal claims against state or local governments. I am committed to working with the SPARK Taskforce to develop relief programs that comply with federal requirements to ensure that our economy emerges from this pandemic stronger and more agile than ever. Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto **Senate Bill 273**.

LAURA KELLY
Governor

COMMUNICATIONS FROM STATE OFFICERS

Office of the Attorney General, submitted the FY 2020 annual report of the Crime Victims Compensation Board. (May 3, 2021)

Kansas Department of Revenue submitted the annual report estimating the state tax expenditures from income tax credits claimed and sales tax exemptions allowed under the Kansas Enterprise Zone Act. (May 4, 2021)

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **S Sub HB 2313**.

Announcing the House herewith transmits a veto message from the Governor on **HB 2039**, AN ACT concerning education; relating to courses of instruction; requiring a civics examination and a personal financial literacy course for high school graduation; amending K.S.A. 72-3217 and 72-3236 and repealing the existing sections, which was received on April 22, 2021 and was read before the House on May 3, 2021 with the following message:

“The Kansas Constitution endows our state Board of Education with the authority to set the curriculum for our public schools. We should let the state Board of Education do

that job, not the Legislature. This is legislative overreach. Should the Legislature wish to modify curriculum, I encourage the Legislature to collaborate with the State Board of Education.

Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto House Bill 2039.”

There being no motion to reconsider **HB 2039**, the Speaker ruled the veto sustained.

Announcing the House herewith transmits a veto message from the Governor on **Substitute HB 2089**, AN ACT concerning education; relating to firearms; standardizing firearm safety education training programs in school districts; establishing the Roy'Alé act., which was received on April 22, 2021 and was read before the House on May 3, 2021 with the following message:

“The Kansas Constitution endows our state Board of Education with the authority to set the curriculum for our public schools. We should let the state Board of Education do that job, not the Legislature. This is legislative overreach. Should the Legislature wish to modify curriculum, I encourage the Legislature to collaborate with the State Board of Education.

Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto House Bill 2089.”

There being no motion to reconsider **Substitute HB 2089**, the Speaker ruled the veto sustained.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1616—

By Senators Masterson and Wilborn

A CONCURRENT RESOLUTION urging the Governor of the State of Kansas to end Federal Pandemic Unemployment Compensation to ensure that businesses do not have to compete with the federal government in attempts to fill thousands of open positions.

WHEREAS, Kansas continues to operate three federal pandemic-related unemployment programs, including weekly Federal Pandemic Unemployment Compensation, in addition to benefits provided by the state's traditional unemployment insurance program, with the original justification for these expansions being that individuals needed additional benefits because of the COVID-19 pandemic, and those individuals could not work; and

WHEREAS, The economy of the State of Kansas has now dramatically recovered from the COVID-19 pandemic as evidenced by the 3.5 % unemployment rate, which is lower than the state's average unemployment rate from 2016 to 2019, according to the U.S. Bureau of Labor Statistics, and at least 73,000 open jobs are currently available in the state; and

WHEREAS, Employers are struggling to find workers to fill these jobs as a result of the disincentive created by government benefits that, including unemployment benefits, currently total \$44,756 on an annualized basis, while the median wage in Kansas is \$38,667; and

WHEREAS, In 2019, the maximum allowed duration of unemployment benefits was

16 weeks, while the Kansas Department of Labor reports that individuals can now receive unemployment benefits for up to 79 weeks; and

WHEREAS, Governor Kelly's administration has instructed Kansas unemployment recipients to answer "yes" when asked if they looked for work, even if they have not looked for work, discouraging employment while promoting deceptive conduct; and

WHEREAS, Fraud is now pervasive in the unemployment compensation program as a result of program expansions, with one in four claims being identified or reported as fraudulent in 2020 according to the Kansas Legislative Division of Post Audit, resulting in Kansas paying out more than \$600 million in fraudulent claims this past year; and

WHEREAS, It is well within this state's prerogative to end its participation in federal pandemic-related unemployment programs, with appropriate notice to the U.S. Department of Labor, as 23 other states have done as of May 26, 2021: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the State of Kansas urges the Governor of the State of Kansas to help Kansas businesses attract and retain the employees they desperately need, spur further economic recovery and growth in Kansas and immediately give formal notice to the U.S. Department of Labor that Kansas will be withdrawing from participation in all federal pandemic-related unemployment benefits programs; and

Be it further resolved: That the Secretary of State shall send an enrolled copy of this resolution to the chairperson of the Legislative Coordinating Council.

ORIGINAL MOTION

President Masterson moved to advance **SCR 1616** to final action, subject to amendment, debate, and roll call. Motion carried.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SCR 1616, A CONCURRENT RESOLUTION urging the Governor of the State of Kansas to end Federal Pandemic Unemployment Compensation to ensure that businesses do not have to compete with the federal government in attempts to fill thousands of open positions.

On roll call, the vote was: Yeas 27; Nays 11; Present and Passing 1; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Pittman, Sykes, Ware.

Present and Passing: Petersen.

Absent or Not Voting: Claeys.

The resolution was adopted.

ACTIONS ON VETO MESSAGE

The veto message having been read, Senator Gossage moved to override the Governor's veto on **SB 29**.

SB 29, AN ACT concerning insurance; relating to risk-based capital requirements; updating the version of instructions in effect; amending K.S.A. 2020 Supp. 40-2c01 and repealing the existing section.

On roll call, the vote was: Yeas 28; Nays 11; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Pittman, Sykes, Ware.

Absent or Not Voting: Claeys.

A two thirds constitutional majority having voted in favor of overriding the Governor's veto, the motion passed and the veto was overridden.

There being no motion offered to reconsider the Governor's veto action on **H Sub Sub SB 273** and line-item veto on **SB 159**, Section 46(a), President Masterson announced the Governor's vetoes sustained.

REPORT ON ENROLLED BILLS

SB 60, SB 170 reported correctly enrolled, properly signed and presented to the Governor on May 11, 2021.

SB 29, H Sub SB 78, SB 159, Sub SB 238, H Sub Sub SB 273 reported correctly enrolled, properly signed and presented to the Governor on May 14, 2021.

SCR 1616 reported correctly enrolled, properly signed and presented to the Secretary of State on May 26, 2021.

As provided by **SCR 1613**, Senator Alley moved the Senate adjourn Sine Die.

President Masterson thereupon announced: "By virtue of the authority vested in me as President of the Senate, I now declare the 2021 Session of the Kansas Senate adjourned Sine Die."

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*



MESSAGE FROM THE HOUSE

Announcing the House here with transmits certificate of action by the House of Representatives on **SB 29**, AN ACT concerning insurance; relating to health insurance; providing for short-term, limited-duration health plans; amending K.S.A. 2020 Supp. 40-2,193 and repealing the existing section.

The veto message from the Governor having been received, a motion was made that not withstanding the Governor's objection to **SB 29**, the bill be passed. By a vote of 67 Yeas and 48 Nays, the motion not having receive the required two-thirds constitutional majority of the members elected or appointed to the House of Representatives, voting in the affirmative, the bill did not pass and the veto was sustained.

MAY 26, 2021

1407

Announcing adoption of **SCR 1616**.

CAUCUS REPORT

**Majority Party Caucus
May 26, 2021**

The office of Majority Leader was declared vacant following an April 9, 2021 meeting and vote of the majority party caucus. The senators of the majority party of the Senate have met and elected the following officers:

Caucus/Party Officers:

-Majority Leader: Larry Alley

-Assistant Majority Leader: Renee Erickson

TY MASTERSON
Chairperson