

## IMMEDIATE RELEASE

Sep. 3, 2013

For more information, contact:

Eileen Hawley

785.368.7138

[Media@ks.gov](mailto:Media@ks.gov)

# Message from the Governor opens Special Session

**Topeka** – The following message from the Governor was read into the record as the special legislative session began today. This message satisfies a Constitutional requirement that the Governor communicate written information about the state of the state at the start of every legislative session.

### Message from the Governor

As you know, on July 24, 2013, Attorney General Derek Schmidt formally requested that I call a special session of the Kansas Legislature for the purpose of repairing Kansas's "Hard 50" sentence in the wake of the June 17, 2013 decision of the United States Supreme Court in *Alleyne v. United States*.

There is broad and bipartisan consensus across all of our state's law enforcement and prosecutorial agencies urging me to adopt the recommendation of Attorney General Schmidt. Likewise, there is broad and bipartisan support among the leaders of this Legislature that a special session is necessary and is in the best interests of public safety.

As the Attorney General has written, the "Hard 50" sentence "is a vital public safety tool enacted by the Legislature more than a decade ago to remove the 'worst of the worst' killers from society for at least 50 years." Legal experts and prosecutors across Kansas agree and have advised me that the *Alleyne* decision renders our "Hard 50" sentence unconstitutional because under current law, it is imposed by a judge rather than by a jury.

Attorney General Schmidt has further advised that a relatively simple procedural fix allowing the jury to make the necessary factual findings, if adopted by the Legislature, will cure the constitutional defect. Until such a cure is enacted, however, all criminal defendants who would otherwise be eligible to receive the "Hard 50" sentence upon conviction will instead receive a maximum sentence of only 25 years. Due to the constitutional and statutory requirement that the state bring criminal defendants to trial in a speedy manner, this has created a situation where time is of the essence.

Enacting a Legislative cure during the 2014 regular session of the Kansas Legislature as would likely occur in the ordinary course of our legislative calendar will, in the words of Attorney General Schmidt, "virtually guarantee" an increase in "the number of convicted killers who will be eligible for parole after only 25 years

-more-

instead of after 50 years.” This fact led the Attorney General to opine that the current circumstance does in fact rise to the level of an “extraordinary occasion” sufficient to justify this office exercising its authority to call the Legislature into special session pursuant to Article 1, Section 5 of the Kansas Constitution.

As such, in my considered judgment, in reliance upon the advice of the Attorney General of the State of Kansas and the bipartisan consensus of the law enforcement community across Kansas, I find that these circumstances present a real and present danger to the public safety of the citizens of Kansas and does, if fact, constitute an “extraordinary occasion” justifying a special session of the Legislature.

I am confident that the Legislature can and will act quickly, with resolve and narrow focus to protect the safety of all Kansans by restoring to prosecutors the immediate ability to seek the “Hard 50” sentence for those criminals convicted of the “worst of the worst” kinds of crimes.

As of 8:00 A.M., September 3, 2013, pursuant to Article I, Section 5 of the Kansas Constitution, I hereby call the Kansas Legislature into special session.

###