

SPECIAL SESSION

# Journal of the Senate

FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, June 22, 2005—10:00 a.m.

Pursuant to the Governor's notification of June 9, 2005, the Senate convened for a Special Session of the Kansas Legislature with President Stephen R. Morris in the chair.

President Morris introduced the Honorable Brad Bryant, Assistant Secretary of State, who delivered the following message:

**PROCLAMATION CALLING THE LEGISLATURE  
INTO THE SPECIAL SESSION FOR KANSAS SCHOOLS**

TO THE PEOPLE OF KANSAS, GREETINGS:

WHEREAS, As Kansans, we hold a fundamental belief in the life-changing power of education and learning; and

WHEREAS, In today's economy, first-rate schools represent the best investment we can make for our children and for the future of our state; and

WHEREAS, Education is the most important function of state government and the very foundation of good citizenship; and

WHEREAS, Our goal as leaders should be to create and maintain a high-quality education system, where every child enters school ready to succeed and leaves on a path to a productive future; and

WHEREAS, The ruling of the Kansas Supreme Court in *Montoy v. State of Kansas* has created an extraordinary occasion, in which the Legislature must meet its constitutional responsibility as set out in Article 6, Section 6 of the Kansas Constitution to make suitable provision for finance of the educational interests of the state;

NOW, THEREFORE, I, KATHLEEN SEBELIUS, GOVERNOR OF THE STATE OF KANSAS, by the authority vested in me by the Constitution of the State of Kansas, do hereby call the

**Legislature of the State of Kansas into  
Special Session for Kansas Schools**

at the Capitol in Topeka, Kansas, on the 22nd day of June, 2005, at the hour of 10:00 o'clock a.m., to enact legislation by July 1, 2005 to respond to the ruling of the Kansas Supreme Court in *Montoy v. State of Kansas*.

DONE: At the Capitol in Topeka  
under the Great Seal of the  
State this 9th day of  
June, A.D. 2005

BY THE GOVERNOR: KATHLEEN SEBELIUS

RON THORNBURGH  
*Secretary of State*

NANCY R. RYAN  
*Assistant Secretary of State*

In accordance with the provision of the Constitution of the State of Kansas and the Proclamation as read, President Morris called the 2005 Special Session of the Legislature to order.

The roll was called with thirty-nine senators present as follows:

District	District
1 Dennis D. Pyle	21 Mark Taddiken
2 Marci Francisco	22 Roger P. Reitz
3 Roger C. Pine	23 Karin Brownlee
4 David Haley	24 Pete Brungardt
5 Mark S. Gilstrap	25 Jean Kurtis Schodorf
6 Chris Steineger	26 Phillip B. Journey
7 David Wysong	27 Leslie D. Donovan, Sr.
9 Kay O'Connor	28 Mike Petersen
10 Nick Jordan	29 Donald Betts, Jr.
11 John L. Vratil	30 Susan Wagle
12 Pat Apple	31 Carolyn McGinn
13 Jim Barone	32 Greta Goodwin
14 Dwayne Umbarger	33 Ruth Teichman
15 Derek Schmidt	34 Terry Bruce
16 Peggy Palmer	35 Jay Emler
17 Jim Barnett	36 Janis K. Lee
18 Laura Kelly	37 Dennis M. Wilson
19 Anthony Hensley	38 Tim Huelskamp
20 Vicki Schmidt	39 Stephen R. Morris
	40 Ralph Ostmeyer

Senator Allen, District 8, was excused.

President Morris welcomed and introduced the Rev. Fred S. Hollomon, who will serve as the senate chaplain for the 2005 Special Session.

Heavenly Father,

I'm sure You've noticed that we're back  
 Much sooner than expected.  
 The court's not pleased with what we did,  
 So our proposal was rejected.

We've received an ultimatum  
 To which some have objected,  
 And the Court has set a deadline  
 Which they assume will be respected.

Editorialists and letter writers  
 Have obviously suspected  
 That the legislature's the reason  
 Why we're back here as directed.

In the twenty-four years I've been here  
 Every session I've detected  
 Complaining about the session  
 Being longer than expected.

As long as a hundred and sixty-five  
 Legislators are elected  
 We shouldn't expect both houses  
 To always be connected.

From all parts of the state  
 Legislators are elected  
 And many varying viewpoints  
 Will always be reflected.

It's not fair for me to say  
Whether we should have been corrected  
The reason is quite simple;  
The Chaplain's not elected!

By the way, Lord,  
In view of who's responsible  
For requiring we be corrected,  
It's ironic the old Court room  
Is the meeting place selected!

In closing, Lord, I pray that we'll be patient with the legislature, patient with each other, and that You will be patient with all of us.

In the Name of Jesus Christ,

AMEN

#### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

SENATE RESOLUTION No. 1801—

A RESOLUTION relating to the organization of the Senate.

*Be it resolved by the Senate of the State of Kansas:* That the Secretary of the Senate notify the House of Representatives that the Senate is organized with the following officers:

Stephen Morris, president,  
John Vratil, vice president,  
Derek Schmidt, majority leader,  
Anthony Hensley, minority leader,  
Pat Saville, secretary,  
Jody Kirkwood, sergeant at arms,  
and awaits the pleasure of the House of Representatives.

On emergency motion of Senator D. Schmidt **SR 1801** was adopted unanimously.

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

SENATE RESOLUTION No. 1802—

A RESOLUTION relating to assignment of seats of the Senate.

*Be it resolved by the Senate of the State of Kansas:* That the members of the 2005 special session of the legislature shall occupy seats in the old Supreme Court chamber located in the southeastern portion of the third floor of the statehouse as follows: Francisco 1, Barone 2, Goodwin 3, Kelly 4, Betts 5, Gilstrap 6, Haley 7, Steineger 8, Allen 9, Huelskamp 10, O'Connor 11, Apple 12, Brungardt 13, Pine 14, Wysong 15, Petersen 16, V. Schmidt 17, Bruce 18, Pyle 19, Palmer 20, Journey 21, Wagle 22, Teichman 23, McGinn 24, Reitz 25, Taddiken 26, Emler 27, Wilson 28, Donovan 29, Ostmeyer 30, Jordan 31, Barnett 32, Schodorf 33, Brownlee 34, Umbarger 35, Vratil 36, Morris 37, D. Schmidt 38, Lee 39 and Hensley 40.

On emergency motion of Senator D. Schmidt **SR 1802** was adopted unanimously.

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

SENATE RESOLUTION No. 1803—

A RESOLUTION relating to the rules of the Senate 2005-2008, adding a new rule 81.

*Be it resolved by the Senate of the State of Kansas:* That the rules of the senate be amended by adding a new rule to read as follows:

**Rule 81. Use of Old Supreme Court Chamber.** (a) During the 2005 special session of the legislature, whenever the senate chamber, or words of like effect, is referred to or designated by the Rules of the Senate 2005-2008, such reference or designation shall mean the old supreme court chamber.

(b) During the 2005 special session of the legislature, whenever the floor of the senate, or words of like effect, is referred to or designated by the Rules of the Senate 2005-2008, such reference or designation shall mean the area on the west side of the railing in the old supreme court chamber.

(c) During the 2005 special session of the legislature, whenever gallery or galleries, or words of like effect, is referred to or designated by the Rules of the Senate 2005-2008, such reference or designation shall mean the area on the east side of the railing in the old supreme court chamber.

(d) During the 2005 special session of the legislature, whenever lobby, or words of like effect, is referred to or designated by the Rules of the Senate 2005-2008, such reference or designation shall mean the area outside the north door of the old supreme court chamber and the hallway adjacent thereto.

(e) The provisions of this rule shall expire on adjournment sine die of the 2005 special session of the legislature.

On emergency motion of Senator D. Schmidt **SR 1803** was adopted unanimously

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following concurrent resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1601—

By Senators, Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION relating to a committee to inform the governor that the two houses of the legislature are duly organized and ready to receive communications.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the governor, and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

On emergency motion of Senator D. Schmidt **SCR 1601** was adopted by voice vote.

In compliance with **SCR 1601**, President Morris appointed Senators Donovan and Betts as senate members to wait upon the Governor and advise her the 2005 Special Session of the Legislature is duly organized and ready to receive communications.

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills and concurrent resolution were introduced and read by title:

**SB 1**, An act concerning the adjutant general; providing for reimbursement for certain life insurance premiums coverage; creating the national guard life insurance premium reimbursement fund; amending K.S.A. 75-3713b, as amended by section 3 of 2005 Senate Substitute for House Bill No. 2518, and K.S.A. 2004 Supp. 79-32,117, as amended by section 21 of 2005 House Bill No. 2537, and repealing the existing sections; also repealing section 1 of 2005 Senate Substitute for House Bill No. 2518, by Committee on Ways and Means.

**SB 2**, An act concerning lotteries; enacting the Kansas expanded lottery act; authorizing operation of certain lottery gaming facilities, electronic gaming machines, video lottery terminals and other lottery games at certain locations; prohibiting certain acts and providing penalties for violations; making appropriations for the fiscal year ending June 30, 2006; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8716, 74-8723, 74-8830 and 74-8832, K.S.A. 2004 Supp. 74-8711 and K.S.A. 2004 Supp. 19-101a, as amended by section 1 of 2005 Senate Bill No. 298, and repealing the existing sections, by Committee on Ways and Means.

**SB 3**, An act concerning schools and school districts; relating to school finance; amending K.S.A. 46-1222, 46-1224, 72-6405, as amended by section 19 of 2005 Senate Bill No. 43,

72-6410, as amended by section 14 of 2005 House Bill No. 2247, 72-6412, as amended by section 15 of 2005 House Bill No. 2247, 72-6414, as amended by section 17 of 2005 House Bill No. 2247, 72-6426, 79-1801 and section 3 of 2005 House Bill No. 2247, and K.S.A. 2004 Supp. 72-978, as amended by section 10 of 2005 House Bill No. 2247, 72-6407, as amended by section 16 of 2005 Senate Bill No. 43, and 72-6434, as amended by section 24 of 2005 House Bill No. 2247, and repealing the existing sections; also repealing K.S.A. 46-1223, by Committee on Education.

**SB 4**, An act making and concerning appropriations for the fiscal year ending June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

**SB 5**, An act concerning public schools; relating to maintenance and operation thereof; authority of courts, appointed masters and judicial panel related to closure of public schools, by Committee on Education.

**SB 6**, An act concerning lotteries; enacting the Kansas expanded lottery act; authorizing operation of certain lottery gaming facilities, electronic gaming machines, video lottery terminals and other lottery games at certain locations; prohibiting certain acts and providing penalties for violations; making appropriations for the fiscal year ending June 30, 2006; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830 and 74-8832, K.S.A. 2004 Supp. 74-8711 and K.S.A. 2004 Supp. 19-101a, as amended by section 1 of 2005 Senate Bill No. 298, and repealing the existing sections, by Committee on Ways and Means.

**SB 7**, An act making and concerning appropriations for the fiscal year ending June 30, 2006, for the department of education; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1602—

By Senators Journey, Brownlee, Donovan, Gilstrap, Huelskamp, Jordan, O'Connor, Ostmeier, Palmer, Petersen, Pine, Pyle, Wagle and Wilson

A PROPOSITION to amend section 6 of article 6 of the constitution of the state of Kansas, relating to school finance.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:*

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 6 of article 6 of the constitution of the state of Kansas is hereby amended to read as follows:

“**§ 6. Finance.** (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall ~~make suitable provision~~ provide for finance of the educational interests of the state *in the manner and amount as determined solely by the legislature*. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“*Explanatory statement.* The purpose of this amendment is to provide that the financing of educational interests of the state shall be in the manner and amount determined solely by the legislature.

“A vote for this amendment would provide that the financing of the educational interests of the state would be solely determined by your representatives and senators in the Kansas legislature.

“A vote against this amendment would continue in effect the current interpretation by the Kansas Supreme court that this provision of the Kansas constitution requires the Kansas legislature to make suitable provision for the finance of the educational system of the state in an amount determined by the court.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2006 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The President referred **SB 1, SB 2, SB 3, SB 4, SB 5, SB 6, SB 7** to the Committee of the Whole.

#### MESSAGE FROM THE HOUSE

Announcing adoption of **HR 6001**, a resolution relating to the organization of the House of Representatives.

*Be it resolved by the House of Representatives of the State of Kansas:*

That the chief clerk of the House of Representatives notify the Senate that the House is organized with the following officers:

Doug Mays, Speaker  
Ray Merrick, Speaker pro tem  
Clay Aurand, Majority Leader  
Dennis McKinney, Minority Leader  
Janet E. Jones, Chief Clerk

Wayne Owen, Sergeant-at-Arms, and awaits the pleasure of the Senate.

Announcing the adoption of **SCR 1601**, a concurrent resolution relating to a committee to wait upon the Governor and advise her the 2005 Special Session of the legislature is organized and ready to receive communications, and the appointment of Representatives George, Peck and Ruff as members of the committee to wait upon the governor.

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

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#### AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

Senator D. Schmidt moved that an emergency be declared by a  $\frac{2}{3}$  constitutional majority, and **SB 3** be advanced to Final Action, subject to amendment, debate and roll call.

Upon the showing of five hands, a roll call was requested on the motion.

On roll call, the vote was: Yeas 24, Nays 15, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Morris, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong

Nays: Brownlee, Bruce, Donovan, Huelskamp, Jordan, Journey, O' Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Taddiken, Wagle, Wilson.

Absent or Not Voting: Allen.

The motion failed.

**COMMITTEE OF THE WHOLE**

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted.

Recommended **SB 3** be amended by motion of Senator Vratil on page 20 of the typed version of the bill, by striking all in subsection (f) and inserting in lieu thereof:

“(f) “Adjusted enrollment” means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, correlation weighting, if any, extraordinary declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, and transportation weighting to enrollment.”

Senator Barnett moved to amend **SB 3** on page 26, of the typed version of the bill, in subsection (a)(3) of section 16, by striking “81st” and inserting “77th”;

On page 28, of the typed version of the bill, before section 18, by inserting:

“New Sec. 18. (a) It is the public policy goal of the state of Kansas that at least 65% of the moneys appropriated, distributed or otherwise provided by the state to school districts shall be expended in the classroom or for instructional purposes.

(b) All moneys attributable to the increase in the amount of base state aid per pupil under the provisions of this act in school year 2005-2006 shall be expended in the classroom or for instructional purposes.

(c) The amount of moneys expended per pupil in the classroom or for instructional purposes in school year 2005-2006, shall not be less than the amount of moneys expended per pupil for such purposes in school year 2004-2005, plus \$50 per pupil.

(d) As used in this section, “instructional purposes” means the activities dealing directly with the interaction between teachers and students and may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving cocurricular activities. Instruction also may be provided through some other approved medium, such as television, radio, computer, internet, multimedia telephone, and correspondence, that is delivered inside or outside the classroom or in other teacher-student settings. Instructional purposes also includes the activities of aides or classroom assistants of any type including but not limited to, clerks, graders, teaching machines who assist in the instructional process.”;

By renumbering the remaining sections accordingly

Senator D. Schmidt requested the amendment be divided into two parts.

Part I reads, on page 26, of the typed version of the bill, in subsection (a) (3) of section 16, by striking “81st” and inserting “77th”;

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 14, Nays 25; Present and Passing 0; Absent or not voting 1.

Yeas: Barnett, Brownlee, Donovan, Huelskamp, Jordan, Journey, McGinn, O'Connor, Palmer, Peterson, Pyle, Reitz, Wagle, Wilson.

Nays: Apple, Barone, Betts, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Morris, Ostmeyer, Pine, D. Schmidt, V. Schmidt, Schodorf, Steiner, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or not voting: Allen.

The motion failed and Part I of the amendment was rejected.

Part II reads, On page 28, of the typed version of the bill, before section 18, by inserting:

“New Sec. 18. (a) It is the public policy goal of the state of Kansas that at least 65% of the moneys appropriated, distributed or otherwise provided by the state to school districts shall be expended in the classroom or for instructional purposes.

(b) All moneys attributable to the increase in the amount of base state aid per pupil under the provisions of this act in school year 2005-2006 shall be expended in the classroom or for instructional purposes.

(c) The amount of moneys expended per pupil in the classroom or for instructional purposes in school year 2005-2006, shall not be less than the amount of moneys expended per pupil for such purposes in school year 2004-2005, plus \$50 per pupil.

(d) As used in this section, "instructional purposes" means the activities dealing directly with the interaction between teachers and students and may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving cocurricular activities. Instruction also may be provided through some other approved medium, such as television, radio, computer, internet, multimedia telephone, and correspondence, that is delivered inside or outside the classroom or in other teacher-student settings. Instructional purposes also includes the activities of aides or classroom assistants of any type including but not limited to, clerks, graders, teaching machines who assist in the instructional process.";

By renumbering the remaining sections accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 26, Nays 12; Present and Passing 0; Absent or not voting 1. Yeas: Apple, Barnett, Betts, Brownlee, Bruce, Emler, Gilstrap, Haley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Peterson, Pine, Pyle, Reitz, D. Schmidt, V. Schmidt, Steineger, Taddiken, Wagle.

Nays: Barone, Brungardt, Francisco, Gilstrap, Goodwin, Hensley, Lee, Schodorf, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or not voting: Allen.

The motion passed and Part II of the amendment was adopted.

Senator Huelskamp further amended **SB 3** on page 28, of the typed version of the bill, preceding section 18, by inserting:

"New Sec.18. No court of this state, nor any master or other person or persons appointed by a court of this state to hear or determine a cause or controversy or to make or enforce any order or remedy ordered by a court pursuant to K.S.A. 60-253, and amendments thereto, or any other provision of law, nor a judicial panel appointed pursuant to the provisions of section 22 of 2005 Senate Bill No. 43, and amendments thereto, shall have authority in the case of Montoy v. State of Kansas, No. 04-92032-S or any other case involving a violation of Article 6 of the Kansas Constitution to make or enforce any order or remedy that would result in the closure of public schools or otherwise enjoin the use of all statutes related to the distribution of funds for public education.";

By renumbering the remaining sections accordingly, and **SB 3** be passed as amended.

The following amendments offered to **SB 3** were rejected:

Senator Huelskamp moved to amend **SB 3** on page 1, of the typed version of the bill, by striking all in section 1, and inserting in lieu thereof:

"New Section 1. No school district shall expend, use or transfer any school district moneys, from whatever source derived, for the purpose of engaging in or supporting in any manner any litigation by the school district or any person, association, corporation or other entity against the state of Kansas, the state board of education, the state department of education, other state agency or any state officer or employee regarding the school district finance and quality performance act or any other law concerning school finance. No such moneys shall be paid, donated or otherwise provided to any person, association, corporation or other entity and used for the purpose of any such litigation."

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas: 14, Nays 21; Present and Passing 4; Absent or not voting 1.

Yeas: Barnett, Brownlee, Donovan, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Peterson, Pyle, Taddiken, Wagle, Wilson.

Nays: Apple, Barone, Bruce, Brungardt, Emler, Francisco, Goodwin, Hensley, Kelly, Lee, McGinn, Morris, Pine, Reitz, D. Schmidt, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Betts, Gilstrap, Haley, Steineger.

Absent or not voting: Allen.

## EXPLANATION OF VOTE

MR. PRESIDENT: Local entities should have the ability to raise and spend money as they see fit, and sometimes it may mean to file suit to address their grievances in a court of law. I vote yea! — TERRY BRUCE

Senators Apple, Barone, Emler, Francisco, Goodwin, Kelly, Lee, McGinn, Morris, Pine, V. Schmidt, Schodorf, Teichman, Umbarger, Vratil and Wysong request the record to show they concur with the “Explanation of Vote” offered by Senator Huelskamp on **SB 3**.

Senator Bruce moved to amend **SB 3** on page 20, of the typed version of the bill, in subsection “(i)” by striking “1,671” where it appears both times and inserting “1,725”;

On page 22, of the typed version of the bill, in subsection “(r)” by striking “1,671” where it appears both times and inserting “1,725”;

On page 24, of the typed version of the bill, in subsection “(b)” by striking “1,671” and inserting “1,725”; in subsection “(d)” by striking “1,671” and inserting “1,725”

Senator Bruce further moved to amend **SB 3** on page 26, of the typed version of the bill, by striking all of section 16 and inserting in lieu thereof:

“Sec. 16. K.S.A. 2004 Supp. 72-6434, as amended by section 24 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-6434. (a) Subject to the limitations of subsection (b) In each school year, each district that has adopted a local option budget is eligible for entitlement to an amount of supplemental general state aid. Entitlement of a district to supplemental general state aid shall be determined by the state board as provided in this subsection *and in accordance with appropriations for supplemental general state aid*. The state board shall:

(1) Determine the amount of the assessed valuation per pupil in the preceding school year of each district in the state;

(2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (1);

~~(3) identify the amount of the assessed valuation per pupil located at the 75th percentile of the amounts ranked under (2);~~

(3) (A) for school year 2005-2006, identify the amount of the assessed valuation per pupil located at the 84th percentile of the amounts ranked under (2);

(B) for school year 2006-2007 and each school year thereafter, identify the amount of the assessed valuation per pupil located at a percentile not less than the 75th percentile of the amounts ranked under (2);

(4) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3);

(5) subtract the ratio obtained under (4) from 1.0. If the resulting ratio equals or exceeds 1.0, the eligibility of the district for entitlement to supplemental general state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive supplemental general state aid in an amount which shall be determined by the state board by multiplying the amount of the local option budget of the district by such ratio. The product is the amount of supplemental general state aid the district is entitled to receive for the school year.

~~(b) For school year 2005-2006, districts shall not be paid supplemental general state aid for that portion of the local option budget in excess of the state prescribed percentage in effect prior to the effective date of this act.~~

~~(c) If the amount of appropriations for supplemental general state aid is less than the amount each district is entitled to receive for the school year, the state board shall prorate the amount appropriated among the districts in proportion to the amount each district is entitled to receive.~~

~~(c) The state board of education shall prescribe the dates upon which the distribution of payments of supplemental general state aid to school districts shall be due. Payments of supplemental general state aid shall be distributed to districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the district. Upon receipt of the warrant, the treasurer of the district shall credit the amount thereof to the supplemental general fund of the district to be used for the purposes of such fund.~~

(~~e~~) (d) If any amount of supplemental general state aid that is due to be paid during the month of June of a school year pursuant to the other provisions of this section is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of supplemental general state aid that is due to be paid during the month of June of a school year and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.”

Senator Huelskamp moved to amend **SB 3** on page 28, of the typed version of the bill, preceding section 18, by inserting:

“New Sec. 18. The findings, conclusions and recommendations of the 2001 Augenblick and Meyers study commissioned by the legislature to calculate the adequacy of school funding in Kansas is hereby rejected by the legislature. Such study shall not be used as a basis for determining the cost of a suitable education, determining whether the amount of school funding is adequate or whether the legislature is providing suitable finance for the educational interests of the state.”;

By renumbering the remaining sections accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 15, Nays 16; Present and Passing 8; Absent or not voting 1. Yeas: Barnett, Brownlee, Bruce, Donovan, Huelskamp, Jordan, Journey, O’Connor, Ostmeier, Palmer, Peterson, Pyle, Taddiken, Wagle, Wilson.

Nays: Apple, Barone, Betts, Brungardt, Francisco, Goodwin, Hensley, Kelly, Lee, Morris, Pine, Reitz, Schodorf, Umbarger, Vratil, Wysong.

Present and Passing: Emler, Gilstrap, Haley, McGinn, D. Schmidt, V. Schmidt, Steineger, Teichman.

Absent or not voting: Allen.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I voted yes and later changed to no on this amendment to suggest that I support the intention of this amendment and would support the majority leader’s offer to run a resolution to express a clear statement from the Senate. I appreciate the majority leader’s commitment to run a resolution expressing a clear view of the Senate. — JIM BARONE

Senator Wysong requests the record to show he concurs with the “Explanation of Vote” offered by Senator Barone on **SB 3**.

MR. PRESIDENT: I “Pass” (or abstain) from voting on this amendment. I believe that taxpayers in a particular school district should always have the right to vote on any tax related referendum. I also believe that such initiative(s) may create, by implementation, the very disparity between adjoining or regional school districts that we are here attempting to lessen or to prevent. — DAVID HALEY

Senator Pyle moved to amend **SB 3** on page 1, of the typed version of the bill, by striking all of section 1 and inserting:

“New Section 1. Unless authorized by a majority of the qualified electors of a school district at an election called and held thereon, no school district shall expend, use or transfer any moneys from the general fund of the district for the purpose of engaging in or supporting in any manner any litigation by the school district or any person, association, corporation or other entity against the state of Kansas, the state board of education, the state department of education, other state agency or any state officer or employee regarding the school district finance and quality performance act or any other law concerning school finance. Unless authorized by a majority of the qualified electors of a school district at an election called and held thereon, no such moneys shall be paid, donated or otherwise provided to any person, association, corporation or other entity and used for the purpose of any such litigation.

Any election held pursuant to this section shall be called and held in the manner provided by the general bond law.”

Senator Journey moved to postpone **SB 3** to a date certain, 10:00 a.m., Tuesday, June 28th, 2005. The motion failed.

Senator Bruce moved to amend **SB 3** on page 1, of the typed version of the bill, by striking all in section 1 and inserting in lieu thereof:

“New Section 1. No school district shall expend, use or transfer any state moneys appropriated by the state or any moneys specified in subsection (c) of K.S.A. 72-6410, and amendments thereto, for the purpose of engaging in or supporting in any manner any lobbying or any litigation by the school district or any person, association, corporation or other entity against the state of Kansas, the state board of education, the state department of education, other state agency or any state officer or employee regarding the school district finance and quality performance act or any other law concerning school finance. No such moneys shall be paid, donated or otherwise provided to any person, association, corporation or other entity and used for the purpose of any such lobbying or litigation.”

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 14, Nays 19; Present and Passing 5; Absent or not voting 2. Yeas: Brownlee, Bruce, Donovan, Emler, Huelskamp, Journey, O'Connor, Ostmeier, Palmer, Peterson, Pyle, Taddiken, Wagle, Wilson.

Nays: Apple, Betts, Brungardt, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Pine, Reitz, D. Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Barnett, Barone, Francisco, Morris, V. Schmidt.

Absent or not voting: Allen, Jordan.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote “NO” on the amendment offered by the senator from Reno.

Although the context of the amendment (which would prohibit school districts from spending general funds on lobbyists) is well-intentioned and consistent with my support of fiscal responsibility, we should not (in the Legislature) dictate to other elected bodies (e.g. local school boards) how they should spend their allocated monies. Many of us have grumbled on this issue before us today that the Kansas Supreme Court should not be able to tell the Legislature how to raise or to spend.

I vote “No” to preserve that same respect for elected school boards across Kansas. —  
DAVID HALEY

Senator Gilstrap requests the record to show he concurs with the “Explanation of Vote” offered by Senator Haley on amendment offered by Senator Bruce.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced.

SENATE CONCURRENT RESOLUTION No. 1603—

By Committee on Ways and Means

A PROPOSITION to amend section 24 of article 2 of the constitution of the state of Kansas, relating to appropriations.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:*

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 24 of article 2 of the constitution of the state of Kansas is hereby amended to read as follows:

“**§ 24. Appropriations.** No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law. *The executive and judicial branches shall have no authority to direct the legislative branch to make any appropriation of money. The judicial branch shall not fashion any remedy that interferes with the expenditure of funds from the treasury in compliance with an appropriation made by law. Any existing order directing the legislative branch to make an appropriation of money shall be unenforceable as of the date this provision is adopted.*”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“*Explanatory statement.* The purpose of this amendment is to clarify that the executive and judicial branches shall not direct the legislative branch to make any

appropriation of money nor shall the judicial branch fashion any remedy that interferes with the legislative branch's constitutional authority to make any appropriation of money. Any existing court order which is inconsistent with this amendment is unenforceable.

"A vote for this amendment would clarify that section 24 of article 2 of the Kansas Constitution provides that neither the judicial branch nor the executive branch can force the legislative branch to appropriate money for any purpose. The amendment would also prohibit the judicial branch from ordering any change in how money is spent after it has been appropriated by the legislative branch. If money is appropriated for a particular purpose the judicial branch could not stop that money from being spent for that purpose. Finally, the amendment would void any current court order directing the legislative branch to make an appropriation of money.

"A vote against this amendment would provide no change to the Kansas Constitution and the existing order that directs the legislative branch to make an appropriation of money shall remain in effect."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at a special election to be held on August 16, 2005.

#### **REFERRED TO COMMITTEE**

The President referred **SCR 1602, SCR 1603** to the Committee on Judiciary.

#### **MESSAGE FROM THE GOVERNOR**

##### **Governor Sebelius' message regarding the Special Session for Kansas Schools**

President Morris, Speaker Mays, Senators, and Representatives:

As of 10 a.m., June 22, 2005, I am calling the Kansas Legislature into special session.

Recently, we got some good news about the Kansas economy. More people are working than ever before, and the Kansas economy continues to grow stronger.

And because of our tough decisions to cut spending and cut costs, we have restored our state's financial health. That means that we can strengthen the schools in every Kansas community, we can do it this year, and we can do it without new taxes.

As I talk to Kansans in cities and towns, farms and suburbs across the state, they tell me they want to see the economy grow, they want their children to be prepared for college and for good jobs, and they understand the connection.

The best investment in a prosperous future is to invest in a great education for all of our children. We can do that, we must do that, and we can do it in the special session without a tax increase. But the state can't return to old patterns, spending more than we're making. Families understand this, and small business owners understand this idea — that you've got to pay the bills with the money you have, or you end up in trouble.

In every community I visit, I hear from Kansans who are tired of seeing our gaming dollars being spent in other states. They want gaming revenues and jobs to stay here. It is time for the Legislature to allow Kansas to move ahead on gaming.

Paying for our investments — in schools, in a growing economy — is what taxpayers expect us to do; it's what they do in their own homes and their own businesses. And so I call on the Legislature to pass gaming in this session.

I am committed to protecting taxpayers and living up to the promises we've made to Kansas parents and their children. I insist that dollars be spent on students, not on bureaucracy.

This means: smaller class sizes in early grades when children are learning the basics; good teachers in every classroom; and children well prepared for the future. And school districts must be held accountable for every dime they spend. We should expect and demand results.

I'm confident that we can have a world-class education for each Kansas child and protect all Kansas taxpayers. I urge all legislators to get to work, and get the job done quickly. Our future depends on it.

KATHLEEN SEBELIUS

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, June 23, 2005.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.  
PAT SAVILLE, *Secretary of the Senate*.

