

SPECIAL SESSION

Journal of the House

FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, June 22, 2005, 10:00 a.m.

Pursuant to the Governor's proclamation of June 9, 2005, the House met in special session at 10:00 a.m.

The following proclamation of the governor was read by Ron Thornburgh, Secretary of State.

**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, § 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
Governor of Kansas
RON THORNBURGH
Secretary of State
NANCY R. RYAN
Assistant Secretary of State

Speaker Mays thereupon declared the House duly convened.

The roll was called with 121 members present.
 Rep. Showalter was excused on verified illness.
 Rep. Goico was excused on legislative business.
 Reps. Carter and Davis were excused on excused absence by the Speaker.
 Present later: Reps. Carter and Davis.

Prayer by Chaplain Chamberlain:

Lord God of creation and life, we pause as we gather this day to acknowledge that we are only complete when we are living in your will, for it is in you that we live and move and have our being. We thank you for your gift of life and all that life offers. We thank you that you are always with us.

Lord, you know that there are times when we end up where we had not intended. We find ourselves in surprising places. Things don't turn out the way that we planned. Sometimes it's because life happens in unexpected ways. Sometimes it's because of the things we do in life. But wherever we are and however we got there, Lord, you are with us.

So here we are Lord, together again and in your presence. As the members of this house meet, remind us all of the things we have in common before we wrestle with the things that divide us. Remind us of our common love of our state. Remind us of our common commitment to our children and to their education. Remind us of the wisdom that results when women and men of good will govern together. Remind us most of all, that you are present to guide and sustain us in our work.

The Pledge of Allegiance was led by Rep. Henry.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Aurand, **HR 6001**, by Reps. Mays and McKinney, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 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 Jones, chief clerk,
 Wayne Owen, sergeant at arms,

and awaits the pleasure of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Aurand, **HR 6002**, by Reps. Mays and McKinney, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6002—

A RESOLUTION relating to assignment of seats of the House of Representatives.

Be it resolved by the House of Representatives of the State of Kansas: That the members of the 2005 special session of the legislature shall occupy the same seats they occupied in the 2005 regular session of the legislature.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Aurand, **HR 6003**, by Reps. Mays, Merrick and Aurand, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6003—

A RESOLUTION concerning the consideration of bills during the special session of the legislature convened June 22, 2005.

Be it resolved by the House of Representatives of the State of Kansas: That the only house bills which will be considered by the house of representatives during the special session of the legislature convened on June 22, 2005, are house bills introduced by the following committees of the house of representatives: The committee on appropriations, the committee on federal and state affairs, the committee on calendar and printing, the committee on taxation and the select committee on school finance.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2001, An act relating to taxation; imposing a special guest worker payroll tax on income earned in Kansas by certain non-citizens of the United States; concerning procedures relating thereto, by Representative Otto.

HB 2002, An act relating to schools; providing for the payment of certain bonuses, by Representative Otto.

HB 2003, An act relating to schools; relating to local option budgets and mill levies for schools; amending K.S.A. 72-6433, as amended by section 17 of 2005 Senate Bill No. 43 and K.S.A. 2004 Supp. 72-6431, as amended by section 22 of 2005 House Bill No. 2247 and repealing the existing sections, by Representative Otto.

HOUSE CONCURRENT RESOLUTION No. 5001—

By Representative Oharah

A PROPOSITION to amend sections 5 and 8 of article 3 of the constitution of the state of Kansas; providing for the election of justices of the supreme court.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) to the Senate 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: Sections 5 and 8 of article 3 of the constitution of the state of Kansas are hereby amended as follows:

§ 5. Selection of justices of the supreme court. (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open thereon as a result of enlargement of the court, or the retirement or failure of an incumbent to file his declaration of candidacy to succeed himself as hereinafter required, or failure of a justice to be elected to succeed himself, shall be filled by appointment by the governor of one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided.

~~(b) In event of the failure of the governor to make the appointment within sixty days from the time the names of the nominees are submitted to him, the chief justice of the supreme court shall make the appointment from such nominees.~~

~~(c) Each justice of the supreme court appointed pursuant to provisions of subsection (a) of this section shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of twelve months in office. Not less than sixty days prior to the holding of the general election next preceding the expiration of his term of office, any justice of the supreme court may file in the office of the secretary of state a declaration of candidacy for election to succeed himself. If a declaration is not so filed, the position held by such justice shall be open from the expiration of his term of office. If such declaration is filed, his name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:~~

“Shall _____

(Here insert name of justice.)

(Here insert the title of the court.)

be retained in office?”

If a majority of those voting on the question vote against retaining him in office, the position or office which he holds shall be open upon the expiration of his term of office, otherwise he shall, unless removed for cause, remain in office for the regular term of six years from the second Monday in January following such election. At the expiration of each term he shall, unless by law he is compelled to retire, be eligible for retention in office by election in the manner prescribed in this section:

— (d) A nonpartisan nominating commission whose duty it shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the “supreme court nominating commission.” Said commission shall be organized as hereinafter provided:

— (e) The supreme court nominating commission shall be composed as follows: One member, who shall be chairman, chosen from among their number by the members of the bar who are residents of and licensed in Kansas; one member from each congressional district chosen from among their number by the resident members of the bar in each such district; and one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district.

— (f) The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.

— (g) No member of the supreme court nominating commission shall, while he is a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of its members *election at the next general election. Such election shall be nonpartisan and from the state at large. Persons who have been admitted to practice law for a minimum of seven years and are in good standing before the state supreme court may file in the office of the Secretary of State a declaration of candidacy for election to fill a vacancy on the supreme court. Such candidates shall be subject to a primary election held at least 60 days before the next general election. The three candidates receiving the greatest number of votes at the primary election shall have their names placed on the ballot for the general election, and the candidate receiving the greatest number of votes at the general election shall succeed to the vacant supreme court position. Each justice so elected shall hold office for a term of six years which term shall commence on the second Monday in January following the general election. Justices of the supreme court may seek reelection.*

§8. Prohibition of political activity by justices and certain judges. No justice of the supreme court who is appointed or retained under the procedure of section 5 of this article, nor any judge of the district court holding office under a nonpartisan method authorized in subsection (a) of section 6 of this article, shall directly or indirectly make any contribution to or hold any office in a political party or organization or take part in any political campaign.

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 for the election of justices of the supreme court through nonpartisan election as a candidate at large for the entire state. The three candidates receiving the greatest number of votes at a primary election would be placed on the ballot at the general election with the candidate receiving the greatest number of votes at the general election succeeding to the vacant position on the supreme court. Such election would be for a term of six years and would be subject to reelection. The successful candidate would be installed in January of the year following the general election the same as other candidates elected from the state at large.

“A vote for this proposition would cause justices of the supreme court to be elected by popular election at general elections for terms of six years.

“A vote against this proposition would retain the current system of having justices of the supreme court being appointed by the governor from a list of three individuals submitted by the supreme court nominating commission.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate 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 on November 7, 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.

The House stood at ease until the sound of the gavel.

Speaker Mays called the House to order.

MESSAGE FROM THE SENATE

Announcing adoption of **SR 1801**, a resolution relating to the organization of the 2005 Special Session 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.

Also, announcing 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 duly organized and ready to receive communication.

Also, announcing the appointment of Senators Donovan and Betts as Senate members of the committee to wait upon the Governor.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate concurrent resolution was thereupon introduced and read by title:

SCR 1601.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, **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 duly organized and ready to receive communication, was adopted.

In accordance with **SCR 1601**, Speaker Mays appointed Reps. George, Peck and Ruff to wait upon the Governor.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2004, An act making and concerning appropriations for the fiscal year ending June 30, 2006, for the attorney general; 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 Appropriations.

HB 2005, An act concerning the adjutant general; providing for reimbursement for certain life insurance premiums coverage; creating the national guard life insurance premium

reimbursement fund; making and concerning appropriations for the fiscal year ending June 30, 2006, for the adjutant general; 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 Appropriations.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Speaker Mays announced the referral of the following bills and resolution to committees as indicated:

Appropriations: **HB 2004, HB 2005.**

Committee of the Whole: **HCR 5001.**

Taxation: **HB 2001.**

Select Committee on School Finance: **HB 2002, HB 2003.**

On motion of Rep. Aurand, the House recessed until 5:00 p.m.

EVENING SESSION

The House met pursuant to recess with Speaker Mays in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2006. An act relating to schools; relating to local option budgets and mill levies for schools; amending K.S.A. 72-6433, as amended by section 17 of 2005 Senate Bill No. 43 and K.S.A. 2004 Supp. 72-6431, as amended by section 22 of 2005 House Bill No. 2247 and repealing the existing sections, by Select Committee on School Finance.

HB 2007. An act relating to schools; providing for the payment of certain bonuses, by Select Committee on School Finance.

HB 2008. An act relating to taxation; imposing a special guest worker payroll tax on income earned in Kansas by certain non-citizens of the United States; concerning procedures relating thereto, by Select Committee on School Finance.

HB 2009. An act relating to schools; amending K.S.A. 2004 Supp. 72-6434 as amended by section 24 of 2005 House Bill No. 2247 and repealing the existing section, by Select Committee on School Finance.

HB 2010. An act relating to school finance; concerning state aid for cost of living weighting of qualifying school districts; amending section 12 of 2005 Senate Bill No. 43 and repealing the existing section, by Select Committee on School Finance.

HB 2011. An act concerning schools and school districts; relating to property tax; increase in sales and use tax rate; relating to the boundaries of certain school districts; relating to the implementation of the Augenblick and Meyers study; amending K.S.A. 2004 Supp. 72-6431, as amended by section 22 of 2005 House Bill No. 2247, 79-3603, as amended by section 2 of 2005 Senate Bill No. 23, 79-3620, 79-3703, 79-3710 and section 8 of 2005 House Bill No. 2247 and repealing the existing sections, by Select Committee on School Finance.

HOUSE CONCURRENT RESOLUTION No. 5002—

By Committee on Federal and State Affairs

A PROPOSITION to amend article 6 of the constitution of the state of Kansas by adding a new section thereto, concerning education.

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

6 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

“§ 11. The courts of the state of Kansas shall have no jurisdiction to review the financing of public education or the distribution of education expenditures in the state, or to apply section 6 of article 6 of this constitution. Determining the structure and level of educational finance is a power exclusively reserved to the elected representatives of the people of Kansas and the governor.”

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

“Explanatory statement. This amendment would clarify that the courts would not have authority to review the funding of public education or the distribution of education expenditures nor to apply the provisions of section 6 of article 6 of the Kansas constitution. Such authority to determine the structure and level of education funding is a power exclusively reserved to the elected representatives of the people and the governor.

“A vote for this amendment would create a new provision under article 6 of the Kansas constitution. Under this new provision, the judicial branch would have no authority to review the way in which public schools are financed, or to interpret section 6 of article 6 of the Kansas constitution. The authority to determine the way public schools are funded and how much money they receive would rest completely with the legislature and the governor.

“A vote against this amendment would provide no change to the Kansas constitution.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate 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 August 16, 2005.

HOUSE CONCURRENT RESOLUTION No. 5003—

By Committee on Taxation

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 House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate 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 House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate 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.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Speaker Mays announced the referral of the following concurrent resolutions to committee as indicated:

Committee of the Whole: **HCR 5002, HCR 5003.**

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2004, HB 2005** be passed.

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.

JUNE 22, 2005

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On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, June 23, 2005.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

