

SPECIAL SESSION

Journal of the House

FOURTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Saturday, June 25, 2005, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 122 members present.
Rep. Showalter was excused on verified illness.
Rep. Goico was excused on legislative business.
Rep. Bethell was excused on excused absence by the Speaker.

Prayer by Rep. Johnson:

Great and glorious Lord God, Supreme Architect of heaven and earth. You have promised when two or three are gathered together in your name, You will be in the midst of them and bless them. Bless us as we gather together in this beautiful place, this beautiful place called Kansas, and this beautiful building, the people's house.

May the still small voice of your spirit whisper words of wisdom in our ears.

May your Fatherly hand be ever about us and about those brave young men and women who are fighting to protect our country and our way of life. They are fighting to see that government of the people, by the people and for the people does not perish from the earth.

Help us to work together to finish our work here so we can go home with the confidence we have done our best to make Kansas a better place for our families to live and work.

All this we ask in your name. Amen.

The Pledge of Allegiance was led by Rep. Ruff.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committee as indicated:

Commerce and Labor: **HB 2014, HB 2015.**

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Vickrey, **HR 6005**, A resolution congratulating and commending Dr. John A. (Andy) Thompkins, was adopted.

Rep. Vickrey introduced Dr. John A. (Andy) Thompkins and thanked him for his service to the state of Kansas.

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Vickrey in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Vickrey, Committee of the Whole report, as follows, was adopted:

Recommended that on motion of Rep. Jack to amend **SCR 1603**, the motion was withdrawn.

Also, on motion of Rep. Holland to amend **SCR 1603**, Rep. Kinzer requested a ruling on the amendment being germane to the resolution. The Rules Chair ruled the amendment not germane. Rep. Holland challenged the ruling, the question being "Shall the Rules Chair be sustained?" The Rules Chair was sustained.

Also, roll call was demanded on further motion of Rep. Jack to amend **SCR 1603** on page 1, in line 30, by striking all after the period; by striking all in line 31; in line 32, by striking all before the quotation mark; in line 43, by striking all after the period;

On page 2, by striking all in line 1; in line 14, by striking all after the period; by striking all in lines 15 and 16;

On roll call, the vote was: Yeas 38; Nays 84; Present but not voting: 0; Absent or not voting: 3.

Yeas: Burgess, Carlson, Colloton, Cox, Craft, Crow, Dillmore, Garcia, Gordon, Hill, Horst, Huff, Huntington, Jack, D. Johnson, Kiegerl, Kirk, Knox, Lane, Light, Loyd, O'Malley, Owens, Pottorff, Roth, Ruff, Sawyer, Schwab, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Treaster, Wilk, Williams, Yonally.

Nays: Aurand, Ballard, Beamer, Brown, Brunk, Burroughs, Carlin, Carter, Dahl, Davis, DeCastro, Decker, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Gatewood, George, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Holland, C. Holmes, M. Holmes, Huebert, Humerickhouse, Hutchins, Huy, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Krehbiel, Kuether, Landwehr, Larkin, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Otto, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Powell, Powers, Ruiz, Schwartz, Shultz, Siegfried, Thull, Vickrey, Ward, Watkins, Weber, Winn, Yoder.

Present but not voting: None.

Absent or not voting: Bethell, Goico, Showalter.

The motion of Rep. Jack did not prevail.

Also, on motion to recommend **SCR 1603** favorably for adoption, roll call was demanded.

On roll call, the vote was: Yeas 73; Nays 49; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Beamer, Brown, Brunk, Burgess, Carlson, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, George, Gordon, Grange, Hayzlett, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Loyd, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Schwab, Schwartz, Shultz, Siegfried, Sloan, Vickrey, Watkins, Weber, Wilk, Williams, Yoder.

Nays: Ballard, Burroughs, Carlin, Colloton, Cox, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Jack, Kirk, Kuether, Lane, Larkin, Light, Loganbill, Long, Mah, McKinney, Menghini, M. Miller, Owens, Pauls, Peterson, Phelps, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Ward, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Bethell, Goico, Showalter.

The motion prevailed, and **SCR 1603** be adopted.

On motion of Rep. Aurand, the House recessed until 4:00 p.m.

LATE AFTERNOON SESSION

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

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Vickrey in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Vickrey, Committee of the Whole report, as follows, was adopted:
Recommended that **HR 6006** be adopted.

On motion of Rep. O'Neal, **HR 6007** be amended on page 9, in line 13, by striking "principals" and inserting "principles";

On page 11, in line 11, by striking "a"; and **HR 6007** be adopted as amended.

On motion of Rep. Aurand, the House recessed until 6:00 p.m.

EVENING SESSION

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

REPORTS OF STANDING COMMITTEES

Select Committee on School Finance recommends **SB 5** be passed

Select Committee on School Finance recommends **H. Sub. for SB 3**, as recommended by the House Select Committee on School Finance on June 23, 2005, be further amended, as follows:

On page 2, in line 4, preceding "It" by inserting "(a)"; in line 7, by striking "instructional purposes" and inserting "instruction"; preceding line 8, by inserting the following:

"(b) All moneys attributable to the increase in the amount of base state aid per pupil under the provisions of this act shall be expended in the classroom or for instruction.

(c) The amount of moneys expended per pupil in the classroom or for instruction 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 \$97 per pupil.

(d) As used in this section, "instruction" means the activities dealing directly with the interaction between teachers and students and may be provided 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 the internet, television, radio, computer, multimedia telephone, correspondence that is delivered inside or outside the classroom and other teacher-student settings or through other approved medium. Instruction also includes the activities of aides or classroom assistants of any type including, but not limited to, clerks, graders and teaching machines which assist in the instructional process.";

Also on page 2, in line 8, preceding "Except" by inserting "(a)"; in line 13, by striking "legislature" and inserting "legislative coordinating council"; in line 14, preceding the period, by inserting "in the amount determined by the legislature"; preceding line 22, by inserting the following:

"(b) The provisions of this section shall expire on June 30, 2007.";

Also on page 2, by striking all in lines 41 through 43;

On page 3, by striking all in lines 1 through 4 and inserting the following:

"New Sec. 7. The state board shall design an administrative reorganization plan for school districts. On or before the first day of the 2006 legislative session, the state board shall submit a copy of such plan to the legislature";

On page 7, by striking all in lines 18 through 43;

On page 8, by striking all in lines 1 through 43;

On page 9, by striking all in lines 1 through 14 and inserting the following:

"New Sec. 12. (a) There is hereby established the office of legislative counsel. The legislative counsel shall be appointed by the legislative coordinating council and shall be an attorney in the private practice of law employed by the legislative coordinating council pursuant to a contract entered into by the legislative coordinating council and such attorney.

(b) No person shall be eligible for appointment as legislative counsel unless: (1) Such person has been admitted to practice law in Kansas for not less than five years prior to appointment; and (2) such person is admitted to practice in the federal court. In addition to the foregoing qualifications, in considering a person for appointment as legislative counsel the legislative coordinating council shall investigate such person's experience in legal research, trial and appellate practice and related areas in order that such person shall possess the experience and judgment deemed necessary to fulfill the duties and responsibilities of the office. The legislative coordinating council shall further make such investigation of a person considered for appointment as will ensure that such person is of high professional standing.

(c) The provisions of the contract entered into by the legislative coordinating council and the legislative counsel shall provide that the legislative counsel may be removed from the position and the contract terminated by a vote of five members of the legislative coordinating council taken at any regular meeting of the council. The legislative counsel shall receive compensation fixed by the legislative coordinating council in accordance with the contract. The contract shall provide for such other matters as the parties to the contract deem appropriate.

(d) Expenditures provided for in this act shall not be subject to approval under any other statute and shall be paid from appropriations for the legislature. No contract made under authority of this act shall require approval under any other statute.

(e) The legislative counsel shall represent the legislature, or either house thereof, in any school finance litigation or other cause or matter as directed by the legislative coordinating council. In cases of quo warranto and mandamus the legislative counsel shall have the same powers and standing in all courts of this state as any county attorney or district attorney has in such attorney's county or in the supreme court and as the attorney general has in any court. When the legislature is in session, either house thereof by its resolution, or both houses by concurrent resolution may authorize the legislative coordinating council to direct the legislative counsel to bring or participate in any cause or action by representing the legislature or either house thereof or the legislative coordinating council in any court of this state or of the United States. When the legislature is not in session, the legislative coordinating council may direct the legislative counsel to bring or participate in any cause or action by representing the legislature or either house thereof or the legislative coordinating council in any court of this state or of the United States in accordance with directions of the legislative coordinating council.

(f) The legislative counsel shall render unofficial advisory opinions upon such legal questions submitted by any member or any standing or special committee of the legislature, all in accordance with policies to be established by the legislative coordinating council. Upon direction of the legislative coordinating council, the legislative counsel shall act as counsel to special committees of the legislature and shall provide investigative assistance, conduct examination of witnesses and participate in committee hearings and deliberations as deemed necessary by the committee chairpersons.

(g) The legislative counsel shall perform such other duties as are directed by the legislative coordinating council.”;

By renumbering sections accordingly;

On page 16, by striking all in lines 42 and 43;

On page 17, in line 1, preceding “(1)” by inserting “(b)”;

On page 24, preceding line 10, by inserting the following:

“(d) In conducting such cost study analysis, the legislative post auditor shall have the authority to access all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized in conducting an audit under the legislative post audit act.”;

By relettering the remaining subsections accordingly;

Also on page 24, in line 29, preceding “The” by inserting “(a)”;

“(b)”;

Also on page 24, preceding line 40, by inserting the following:

“(c) The superintendent of each school district shall certify that the profile of the school district, summary of the proposed budget, attendance center budget report and the budget of the district and all other financial data or information required by this section and reported to the state board or the department are accurate. If such superintendent certifies any data or information that is false, such superintendent shall be guilty of a class B nonperson misdemeanor.”;

On page 27, in line 28, by striking all following “Shall”; by striking all in lines 29 and 30; in line 31, by striking “(2) shall”; in line 32, by striking “(3)” and inserting “(2)”;

On page 29, in line 29, by striking “cost of living levy” and inserting “local activities budget”;

On page 32, by striking all in lines 12 through 22;

By renumbering sections accordingly;

On page 34, by striking all in lines 23 through 43;

On page 35, by striking all in lines 1 through 10 and inserting the following:

“New Sec. 32. 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 by the school district. 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. As used in this section, “lobbying” has the meaning ascribed thereto in K.S.A. 46-225, and amendments thereto.”;

Also on page 35, preceding line 22, by inserting the following:

“Sec. 34. K.S.A. 2004 Supp. 72-978, as amended by section 10 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-978. (a) Each year, the state board of education shall determine the amount of state aid for the provision of special education and related services each school district shall receive for the ensuing school year. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the total amount of general fund and local option budgets of all school districts;

(2) subtract from the amount determined in paragraph (1) the total amount attributable to assignment of transportation weighting, program weighting, special education weighting and at-risk pupil weighting to enrollment of all school districts;

(3) divide the remainder obtained in paragraph (2) by the total number of full-time equivalent pupils enrolled in all school districts on September 20;

(4) determine the total full-time equivalent enrollment of exceptional children receiving special education and related services provided by all school districts;

(5) multiply the amount of the quotient obtained in paragraph (3) by the full-time equivalent enrollment determined in paragraph (4);

(6) determine the amount of federal funds received by all school districts for the provision of special education and related services;

(7) determine the amount of revenue received by all school districts rendered under contracts with the state institutions for the provisions of special education and related services by the state institution;

(8) add the amounts determined under paragraphs (6) and (7) to the amount of the product obtained under paragraph (5);

(9) determine the total amount of expenditures of all school districts for the provision of special education and related services;

(10) subtract the amount of the sum obtained under paragraph (8) from the amount determined under paragraph (9); and

~~(11) (A) for school year 2005-2006, multiply the remainder obtained under paragraph (10) by 85%;~~

~~(B) for school year, 2006-2007, multiply the remainder obtained under paragraph (10) by 83%; and~~

~~(C) for school year 2007-2008 and each year thereafter, multiply the remainder obtained under paragraph (10) by 91%.~~

(11) multiply the remainder obtained under paragraph (10) by 90%.

The computed amount is the amount of state aid for the provision of special education and related services aid a school district is entitled to receive for the ensuing school year.

(b) Each school district shall be entitled to receive:

(1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

(2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

(3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

(4) except for those school districts entitled to receive reimbursement under subsection (c) or (d), after subtracting the amounts of reimbursement under paragraphs (1), (2) and (3) of this subsection (a) from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as $\frac{2}{3}$ full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(c) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(d) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

Sec. 35. K.S.A. 72-6410, as amended by section 14 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-6410. (a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) "Base state aid per pupil" means an amount of state financial aid per pupil. Subject to the other provisions of this subsection, the amount of base state aid per pupil is ~~\$4,222~~ \$4,319. The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto, and an amount equal to 70% of the federal impact aid of the district.

(d) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 36.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

General state aid	
For the fiscal year ending June 30, 2006.....	\$53,400,000
Supplemental general state aid	
For the fiscal year ending June 30, 2006.....	\$4,600,000
Special education services aid	
For the fiscal year ending June 30, 2006.....	\$15,800,000
KPERS — employee contributions	
For the fiscal year ending June 30, 2006.....	\$3,400,000

Cost of living state aid	
For the fiscal year ending June 30, 2006.....	\$1,000,000
Supplemental local activities budget state aid	
For the fiscal year ending June 30, 2006.....	\$7,800,000
Skills for success state aid	
For the fiscal year ending June 30, 2007.....	\$20,000,000

Sec. 37. The provisions of this act shall not be severable. If any provision of this act is held to be invalid or unconstitutional, the entire act shall be null and void.”;

And by renumbering the remaining sections accordingly;

Also on page 35, in line 22, by striking all following “60-2106.”; in line 23, by striking all preceding “72-6421” and inserting “72-6410, as amended by section 14 of 2005 House Bill No. 2247.”; in line 26, preceding “72-” by inserting “72-978, as amended by section 10 of 2005 House Bill No. 2247.”; in line 31, by striking all after “and”; in line 32, by striking “No. 43.”; in line 36, preceding the period by inserting “and on the date of the issuance by the Kansas Supreme Court of the mandate and dismissal of Ryan Montoy, *et al.* v. State of Kansas, *et al.*, case no. 92,032”;

On page 1, in the title, in line 9, preceding “amending” by inserting “relating to school finance; relating to the powers and duties of the legislature, courts, state board of education and school districts in relation thereto; relating to litigation in relation thereto; making and concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for the department of education.”; also in line 9, by striking “46-” ; by striking all in line 10; in line 11, by striking all preceding “72-6421” and inserting “60-2106, 72-6410, as amended by section 14 of 2005 House Bill No. 2247.”; in line 13, following “Supp.” by inserting “72-978, as amended by section 10 of 2005 House Bill No. 2247.”; in line 18, after “43,” where it appears the first time by inserting “and”; also in line 18, by striking “and section 23 of 2005”; in line 19, by striking all before “and”; in line 20, following “K.S.A.” by inserting “46-1222”; also in line 20, preceding “72-6433” by inserting “46- 1224”; and the substitute bill be passed as amended.

REPORT ON ENGROSSED RESOLUTIONS

HR 6007 reported correctly engrossed June 25, 2005.

REPORT ON ENROLLED RESOLUTIONS

HR 6004 reported correctly enrolled and properly signed on June 25, 2005.

On motion of Rep. Aurand, the House adjourned until 3:00 p.m., Sunday, June 26, 2005.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

