

SPECIAL SESSION

Journal of the House

FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Sunday, June 26, 2005, 3:00 p.m.

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

The roll was called with 123 members present.

Rep. Showalter was excused on verified illness.

Rep. Newton was excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

Lord, on the seventh day of creation, you looked at all you had created, called it "very good," and rested. As the work of this legislature continues even on this day of rest and reflection, remind us all of the wonder of what you have done. Remind us once again that you are the source of all that we are and all that we have. It is all part of your "very good" creation and a gift from your hands. Nothing belongs to us. We are merely the stewards of what belongs to you.

O God of the Sabbath and of every day, bless us in our pursuit of what is holy and just. Forgive us when our person, our prejudices, or our party gets in the way of doing what we know is right. Protect us from the absolutes that become false idols and from the relativism that becomes a path to nowhere. Guide us on our journey. Show us the end. Lead us there for your name's sake. Amen.

The Pledge of Allegiance was led by Rep. Ruiz.

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.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HR 6006, A resolution concerning funding for public schools, was considered on final action.

On roll call, the vote was: Yeas 67; Nays 56; Present but not voting: 0; Absent or not voting: 2.

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

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

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The resolution was adopted.

EXPLANATION OF VOTE

MR. SPEAKER: As a responsible elected representative I vote NO on **HR 6006**. I believe the legislature did not show good faith by passing **HB 2247**. Some provisions met court guidelines, but others were purposely in opposition. The fact that \$142 million was the largest single-year increase in *a decade* reveals the reason for the lawsuit.

It is the Court's responsibility to enforce the state constitution when suit is brought to do so.—GERALDINE FLAHARTY

HR 6007, A resolution responding to the Kansas Supreme Court's decision in the case of Montoy v. State of Kansas, was considered on final action.

On roll call, the vote was: Yeas 74; Nays 49; Present but not voting: 0; Absent or not voting: 2.

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

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

Present but not voting: None.

Absent or not voting: Newton, Showalter.

The resolution was adopted, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: The court found that **HB 2247** did not meet requirements of the Montoy action. We should be using our time to fix the funding, not drafting resolutions of disagreement. I vote NO on **HR 6607**.—GERALDINE FLAHARTY

SCR 1603, 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 or to redirect the expenditure of funds appropriated by law, except as the legislative branch may provide by law or as may be required by the Constitution of the United*

States. 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 to redirect the expenditures of funds appropriated by law, except as the legislative branch may provide by law or as may be required by the Constitution of the United States. 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, except as the legislative branch may provide by law or as may be required by the Constitution of the United States. The amendment would also prohibit the judicial branch from ordering a change in how money is spent after it has been appropriated by the legislative branch, except as the legislative branch may provide by law or as may be required by the Constitution of the United States. 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 the first Tuesday following 60 calendar days after the approval of this resolution by both the Senate and the House of Representatives of the Kansas legislature, was considered on final action.

On roll call, the vote was: Yeas 70; Nays 53; Present but not voting: 0; Absent or not voting: 2.

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

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

Present but not voting: None.

Absent or not voting: Newton, Showalter.

A two-thirds majority of the members elected to the House not having voted in the affirmative, the resolution was not adopted.

EXPLANATIONS OF VOTE

MR. SPEAKER: I agree the Legislature should be solely responsible for appropriations; I agree the proper way to make that clear in the future is through a Constitutional amendment, not by defying the Supreme Court. However, I do not agree that such an amendment can or should be applied to existing court orders—to do so usurps the Court’s position, changing

decisions and remedies for current litigants won under existing rules, and is to me every bit as noxious to the balance of powers as the Court's invasion of the Legislature's appropriations power.

I will not agree to use the Constitution to play tit for tat; I vote no on **SCR 1603** as written.—JEFF JACK

MR. SPEAKER: The people of Kansas control Kansas Government. I was elected to serve a portion of that population. In so representing them I vote YES on **SCR 1603** reflecting their wishes and position supporting the power of the people and rejecting the actions of the Kansas Supreme Court.—JIM MORRISON

MR. SPEAKER: While I have serious concerns with the Supreme Court's specific order for the Legislature to increase its appropriation for school funding, I have a greater concern for amending the Kansas Constitution with little debate and no opportunity for public hearings.

Therefore I vote no on **SCR 1603**.—NILE DILLMORE, JIM WARD

MR. SPEAKER: I vote yes on **SCR 1603**. Although **SCR 1603** directly affects a court decision that benefits schools, a clarification regarding which branch of government has the power to "tax and spend" is needed. The Judicial Branch has the power to review the other branches' work so it is within its jurisdiction to order change, however; dictating actual dollar amounts breaches the power granted only to the Legislative Branch. Before Kansans begin to find themselves with an unlimited number of court-ordered expenditures and taxes, Kansas voters deserve an opportunity to determine which branch they wish to increase taxes and determine levels of expenditures.—DEENA HORST

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

COMMITTEE OF THE WHOLE

On motion of Rep. Hayzlett, Committee of the Whole report, as follows, was adopted: Recommended that **SB 5** be passed over and retain a place on the calendar..

Committee report to **H. Sub. for SB 3** be adopted; also, on motion of Rep. M. Holmes to amend, the motion did not prevail.

Also, on motion of Rep. Decker, **H. Sub. for SB 3** be amended on page 27, in line 13, by striking "(c)" and inserting "New Sec. 19";

By renumbering the remaining sections accordingly;

Also, on motion of Rep. Watkins, **H. Sub. for SB 3** be amended on page 42, preceding line 37, by inserting the following:

"New Sec. 37. (a) Beginning with the 2006-2007 school year and every school year thereafter, every school district shall require that 50% of the overall food product offerings in vending machines accessible to students on the premises of a public school be healthy food alternatives.

(b) Healthy food alternatives shall not include foods of minimal nutritional value as defined by the United States department of agriculture under the national school lunch program.";

And by renumbering the remaining sections accordingly;

In the title, in line 11, after the semicolon by inserting "relating to school nutrition";

Also, rose and reported progress.

On motion of Rep. Aurand, the House recessed until 7:45 p.m.

EVENING SESSION

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

On motion of Rep. McLeland, the House recessed until 9:00 p.m.

NIGHT 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. Hayzlett in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that discussion resume on **H. Sub. for SB 3** (see Committee of the Whole, Late Afternoon Session).

Also, on motion of Rep. Mast to amend **H. Sub. for SB 3**, Rep. Colloton requested the question be divided. The question was divided.

On Part A of the motion of Rep. Mast to amend, the motion did not prevail.

Also, roll call was demanded on Part B of the motion of Rep. Mast to amend **H. Sub. for SB 3** on page 13, in line 32, by striking all after the second comma; in line 33, by striking all before "school"; in line 34, by striking all after the second comma; in line 35, by striking all before "special"; in line 42, by striking all after "(i)"; by striking all in line 43;

On page 14, by striking all in lines 1 through 3; in line 4, by striking "(j)"; in line 7, by striking "(k)" and inserting "(j)"; by striking all in lines 10 through 24; in line 25, by striking "(n)" and inserting "(k)"; in line 41, by striking "(o)" and inserting "(l)";

On page 15, in line 2, by striking "(p)" and inserting "(m)"; in line 9, by striking "(q)" and inserting "(n)";

On page 28, in line 33, by striking "There"; by striking all in line 34; in line 35, by striking all before "All"; in line 39, by striking "vocational education fund" and inserting "general fund of the school district"; in line 42, by striking "vocational education" and inserting "general";

On page 29, in line 1, by striking "vocational education" and inserting "general"; in line 4, by striking all before the period and inserting "general fund of the school district"; in line 8, by striking all after "(c)"; by striking all in lines 9 through 23 and inserting "The vocational education fund of each district is hereby abolished. Any moneys in such fund shall be transferred and credited to the general fund of the school district.";

On page 38, by striking all in lines 15 through 43;

By striking all on pages 39 and 40;

On page 41, by striking all in lines 1 and 2;

And by renumbering the remaining sections accordingly;

Also on page 41, in line 9, by striking all after "pupil"; by striking all in lines 10 through 17; in line 18, by striking all before the period and inserting "as determined by section 42, and amendments thereto"; in line 26, by striking "funds" and inserting "fund"; in line 27, by striking all after "district"; by striking all in line 28;

On page 42, in line 1, by striking all after the comma; by striking all in line 2; in line 3, by striking all before "and"; after line 36, by inserting the following:

"Sec. 36. K.S.A. 2004 Supp. 72-6431, as amended by section 22 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of ~~20~~ 44 mills in the school year 2005-2006 and school year 2006-2007.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 6 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 37. K.S.A. 2004 Supp. 79-3603, as amended by section 2 of 2005 Senate Bill No. 23, is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% *before August 1, 2005, and 7.3% on and after August 1, 2005*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt

from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building

or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service as defined in K.S.A. 2004 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 38. K.S.A. 2004 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required

amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) *Commencing on ~~July 1, 2006~~, August 1, 2005, and ending on June 30, 2006*, the state treasurer shall credit ~~$\frac{19}{265}$~~ $\frac{7}{146}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~5.3%~~ 7.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) *Commencing on July 1, ~~2007~~ 2006, and ending on June 30, 2007*, the state treasurer shall credit ~~$\frac{13}{106}$~~ $\frac{19}{365}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~5.3%~~ 7.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) *On and after July 1, 2007, the state treasurer shall credit $\frac{13}{146}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 7.3%, and deposited as provided by subsection (a) exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project or taxpayers doing business with such entity financed by a special bond project as defined in K.S.A. 12-1770a, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a special bond project as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment or special bond project.

Sec. 39. K.S.A. 2004 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3% *before August 1, 2005, and 7.3% on and after August 1, 2005*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 40. K.S.A. 2004 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) *Commencing on ~~July 1, 2006~~, August 1, 2005, and ending on June 30, 2006*, the state treasurer shall credit ~~$\frac{19}{265}$~~ $\frac{7}{146}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5.3%~~ 7.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) *Commencing on July 1, 2007* ~~2006~~, *and ending on June 30, 2007*, the state treasurer shall credit ~~$\frac{13}{106}$~~ $\frac{19}{365}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5.3%~~ 7.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) *On and after July 1, 2007*, the state treasurer shall credit $\frac{13}{146}$ of the revenue received or collected from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 7.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.

New Sec. 42. (a) For school year 2005-2006, the amount of base state aid per pupil shall be determined by the state board as follows:

- (1) Determine the full-time equivalent enrollment of the district;
- (2) For districts with an enrollment of less than 430:
 - (A) Subtract the amount determined under paragraph (1) from 430;
 - (B) divide the remainder determined under paragraph (A) by 10;
 - (C) multiply the quotient determined under paragraph (B) by .01;
 - (D) multiply the product determined under paragraph (C) by \$5,261;
 - (E) add \$6,701 to the product determined under paragraph (D). The sum is the base state aid per pupil.
- (3) For districts with an enrollment of at least 430 but less than 1,300:
 - (A) Subtract the amount determined under paragraph (1) from 1,300;
 - (B) divide the remainder determined under paragraph (A) by 80;
 - (C) multiply the quotient determined under paragraph (B) by .01;
 - (D) multiply the product determined under paragraph (C) by \$5,261;
 - (E) add \$6,128 to the product determined under paragraph (D). The sum is the base state aid per pupil.

(4) For districts with an enrollment of at least 1,300 but less than 11,200:
(A) Subtract the amount determined under paragraph (1) from 11,200;
(B) divide the remainder determined under paragraph (A) by 600;
(C) multiply the quotient determined under paragraph (B) by .01;
(D) multiply the product determined under paragraph (C) by \$5,261;
(E) add \$5,261 to the product determined under paragraph (D). The sum is the base state aid per pupil.

(5) For districts with an enrollment of 11,200 or more, the base state aid per pupil is \$5,261.

(b) For school year 2005-2006 and each school year thereafter, the amount of base state aid per pupil is the amount of base state aid per pupil in the preceding school year, plus 2%.

If the amount of base state aid per pupil is reduced as provided by subsection (c), the adjustment in the amount of such aid pursuant to this subsection shall be determined using the amount of the base state aid per pupil prior to any reduction in amount as provided by subsection (c).

(c) 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.

New Sec. 43. (a) In each school year, any district which is obligated to make payments from its capital outlay fund pursuant to K.S.A. 72-8801 *et seq.*, and amendments thereto, is eligible for entitlement to an amount of supplemental capital outlay state aid. Entitlement of a district to such supplemental state aid shall be determined by the state board as provided in this section. 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 paragraph (1);

(3) identify the amount of the assessed valuation per pupil located at the 95th percentile of the amounts ranked under paragraph (2);

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

(5) subtract the ratio obtained under paragraph (4) from 1.0. If the resulting ratio equals or exceeds 1.0, the eligibility of the district for entitlement to supplemental capital outlay state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive such supplemental aid in an amount which shall be determined by the state board by multiplying the amount the district is obligated to pay pursuant to K.S.A. 72-8801 *et seq.*, and amendments thereto, by such ratio. The product is the amount of supplemental capital outlay state aid the district is entitled to receive for the school year.

(b) If the amount of appropriations for supplemental capital outlay 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 capital outlay state aid to school districts shall be due. Such payments 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 capital outlay fund of the district to be used for the purposes of such fund.

(d) If any amount of supplemental capital outlay 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 6, as soon as moneys are available therefor. Any payment of capital outlay 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.

New Sec. 44. In order to provide for the differences in the cost of living among the school districts in the state, the state board of education shall make recommendations to the governor for adjustments to the amount of base state aid per pupil determined under section 42, and amendments thereto. In determining the amount of any such adjustment, the board shall use data from the national center for educational statistics, studies conducted by the board or other sources the board deems appropriate. The state board shall file such recommendations, if any, as part of the budget estimate required by K.S.A. 75-3717, and amendments thereto.

Sec. 45. K.S.A. 72-4419 is hereby amended to read as follows: 72-4419. The school district in which a student is enrolled shall pay the tuition of such student to attend any vocational education course or program when such attendance is approved as provided in K.S.A. 72-4418, and amendments thereto, from its vocational education fund, ~~except that the general fund of the district.~~ Any board receiving funds under an agreement under K.S.A. 72-4421, and amendments thereto, shall pay such tuition when the student is enrolled in a school district which is a party to the agreement if the agreement so provides. ~~In the case of a school district which is not a party to an agreement under K.S.A. 72-4421, and amendments thereto, should there be insufficient or no moneys in the vocational education fund to pay such tuition, the board of education shall transfer from the general fund to the vocational education fund such amount as will satisfy the insufficiency.~~

Sec. 46. K.S.A. 2004 Supp. 72-6409, as amended by section 13 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-6409. (a) "General fund" means the fund of a district from which operating expenses are paid and in which is deposited the proceeds from the tax levied under K.S.A. 72-6431, and amendments thereto, all amounts of general state aid under this act, payments under K.S.A. 72-7105a, and amendments thereto, payments of federal funds made available under the provisions of title I of public law 874, except amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program, and such other moneys as are provided by law.

(b) "Operating expenses" means the total expenditures and lawful transfers from the general fund of a district during a school year for all purposes, except expenditures for the purposes specified in K.S.A. 72-6430, and amendments thereto.

(c) "General fund budget" means the amount budgeted for operating expenses in the general fund of a district.

(d) "Budget per pupil" means the general fund budget of a district divided by the enrollment of the district.

(e) "Program weighted fund" means and includes the following funds of a district: ~~Vocational education fund~~, at-risk education fund, *special education fund* and bilingual education fund.

(f) "Categorical fund" means and includes the following funds of a district: ~~Special education fund, food~~ Food service fund, driver training fund, adult education fund, adult supplementary education fund, area vocational school fund, professional development fund, parent education program fund, summer program fund, extraordinary school program fund, and educational excellence grant program fund.

Sec. 47. K.S.A. 72-6411 is hereby amended to read as follows: 72-6411. (a) The transportation weighting of each district shall be determined by the state board as follows:

(1) Determine the total expenditures of the district during the preceding school year from all funds for transporting pupils of public and nonpublic schools on regular school routes;

(2) divide the amount determined under (1) by the total number of pupils who were included in the enrollment of the district in the preceding school year and for whom transportation was made available by the district;

(3) multiply the quotient obtained under (2) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing less than ~~2~~¹/₂ 1.25 miles by the usually traveled road from the school building they attended, and for whom transportation was made available by the district;

- (4) multiply the product obtained under (3) by 50%;
- (5) subtract the product obtained under (4) from the amount determined under (1);
- (6) divide the remainder obtained under (5) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing ~~2 1/2~~ 1.25 miles or more by the usually traveled road from the school building they attended and for whom transportation was made available by the district. The quotient is the per-pupil cost of transportation;
- (7) on a density-cost graph plot the per-pupil cost of transportation for each district;
- (8) construct a curve of best fit for the points so plotted;
- (9) locate the index of density for the district on the base line of the density-cost graph and from the point on the curve of best fit directly above this point of index of density follow a line parallel to the base line to the point of intersection with the vertical line, which point is the formula per-pupil cost of transportation of the district;
- (10) divide the formula per-pupil cost of transportation of the district by base state aid per pupil;
- (11) multiply the quotient obtained under (10) by the number of pupils who are included in the enrollment of the district, are residing ~~2 1/2~~ 1.25 miles or more by the usually traveled road to the school building they attend, and for whom transportation is being made available by, and at the expense of, the district. The product is the transportation weighting of the district.

(b) For the purpose of providing accurate and reliable data on pupil transportation, the state board is authorized to adopt rules and regulations prescribing procedures which districts shall follow in reporting pertinent information relative thereto, including uniform reporting of expenditures for transportation.

(c) "Index of density" means the number of pupils who are included in the enrollment of a district in the current school year, are residing ~~2 1/2~~ 1.25 miles or more by the usually traveled road from the school building they attend, and for whom transportation is being made available on regular school routes by the district, divided by the number of square miles of territory in the district.

(d) "Density-cost graph" means a drawing having: (1) A horizontal or base line divided into equal intervals of density, beginning with zero on the left; and (2) a scale for per-pupil cost of transportation to be shown on a line perpendicular to the base line at the left end thereof, such scale to begin with zero dollars at the base line ascending by equal per-pupil cost intervals.

(e) "Curve of best fit" means the curve on a density-cost graph drawn so the sum of the distances squared from such line to each of the points plotted on the graph is the least possible.

~~(f) The provisions of this section shall take effect and be in force from and after July 1, 1992.~~

Sec. 48. K.S.A. 72-6413, as amended by section 16 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-6413. The program weighting of each district *shall be the sum of the special education and related services weighting of the district and the bilingual education weighting of the district* and shall be determined by the state board as follows:

~~(a) Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by .395;~~

~~(b) compute full time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;~~

~~(c) add the products obtained under (a) and (b). The sum is the program weighting of the district.~~

(a) *The state board shall determine the special education and related services weighting of the district as follows:*

(1) Determine the full-time equivalent enrollment of each district;

(2) multiply the number determined under paragraph (1) by .00002;

(3) add .90 to the product determined under paragraph (2) of this subsection. The sum is the special education and related services weighting of the district.

(b) The state board shall determine the bilingual education weighting of the district as follows:

- (1) Determine the full-time equivalent enrollment of each district;
- (2) (A) for districts with an enrollment of less than 500, multiply the number determined under paragraph (1) of this subsection by .15. The product is the bilingual weighting of the district;
- (B) for districts with an enrollment of at least 500 but less than 1,000:
- (i) Subtract 500 from the enrollment of the district;
- (ii) multiply the remainder determined under paragraph (i) of this subsection by .0014;
- (iii) add .15 to the product determined under paragraph (ii) of this subsection. The sum is the bilingual weighting of the district;
- (C) for districts with an enrollment of 1,000 or more:
- (i) Subtract 1,000 from the enrollment of the district;
- (ii) multiply the remainder determined under paragraph (i) of this subsection by .000005;
- (iii) add .85 to the product obtained under paragraph (ii) of this subsection. The sum is the bilingual education weighting of the district.

Sec. 49. K.S.A. 72-6414, as amended by section 17 of 2005 House Bill No. 2247, is hereby amended to read as follows: 72-6414. (a) The at-risk pupil weighting of each district shall be determined by the state board by multiplying the number of at-risk pupils included in enrollment of the district by .145. The product is the at-risk pupil weighting of the district. as follows:

- (1) Determine the full time equivalent enrollment of the district;
- (2) determine the number of at-risk pupils included in the enrollment of the district.
- (3) For districts with an enrollment of less than 200, multiply the number determined under paragraph (2) by .20. The product is the at-risk weighting of the district.
- (4) For districts of 200 or more:
- (A) Divide 1,000 by the enrollment of the district;
- (B) multiply the quotient obtained under paragraph (A) by .08;
- (C) subtract the product determined under paragraph (B) from .60. The remainder is the at-risk weighting of the district.

(b) Except as provided in subsection (d), of the amount a district receives from the at-risk pupil weighting, an amount produced by a pupil weighting of .01 shall be used by the district for achieving mastery of basic reading skills by completion of the third grade in accordance with standards and outcomes of mastery identified by the state board under K.S.A. 72-7534, and amendments thereto.

(c) A district shall include such information in its at-risk pupil assistance plan as the state board may require regarding the district's remediation strategies and the results thereof in achieving the third grade reading standards and outcomes of mastery identified by the state board. The reporting requirements shall include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the second grade diagnostic reading test prescribed by the state board.

(d) A district whose pupils substantially achieve the state board standards and outcomes of mastery of reading skills upon completion of third grade may be released, upon request, by the state board from the requirements of subsection (b).

Sec. 50. K.S.A. 72-6415 is hereby amended to read as follows: 72-6415. (a) The school facilities weighting of each district shall be determined in each school year in which such weighting may be assigned to enrollment of the district as follows:

- (1) Determine the number of pupils, included in enrollment of the district, who are attending a new school facility;
- (2) (A) multiply the number of pupils determined under paragraph (1) by .25 in the first year in which such weighting may be assigned;
- (B) multiply the number of pupils determined under paragraph (1) by .16 in the second year in which such weighting may be assigned;
- (C) multiply the number of pupils determined under paragraph (1) by .08 in the third year in which such weighting may be assigned.

(b) The product determined under subsection (a) is the school facilities weighting of the district.

~~(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.~~

Sec. 51. K.S.A. 72-6420 is hereby amended to read as follows: 72-6420. (a) There is hereby established in every district a fund which shall be called the special education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~Notwithstanding any other provision of law~~ *Except as provided herein*, all moneys received by the district from whatever source for special education shall be credited to the special education fund established by this section, except that (1) amounts of payments received by a district under K.S.A. 72-979, and amendments thereto, and amounts of grants, if any, received by a district under K.S.A. 72-989, and amendments thereto, shall be deposited in the general fund of the district and transferred to the special education fund, and (2) Any moneys received by a district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be credited to the special fund established under the agreements.

(b) The expenses of a district directly attributable to special education shall be paid from the special education fund and from special funds established under K.S.A. 72-968, and amendments thereto.

(c) Obligations of a district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be paid from the special education fund established by this section.

Sec. 52. K.S.A. 2004 Supp. 72-8302 is hereby amended to read as follows: 72-8302. (a) The board of education of a school district may provide or furnish transportation for pupils who are enrolled in the school district to or from any school of the school district or to or from any school of another school district attended by such pupils in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto.

(b) (1) When any or all of the conditions specified in this provision exist, the board of education of a school district shall provide or furnish transportation for pupils who reside in the school district and who attend any school of the school district or who attend any school of another school district in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto. The conditions which apply to the requirements of this provision are as follows:

(A) The residence of the pupil is inside or outside the corporate limits of a city, the school building attended is outside the corporate limits of a city and the school building attended is more than ~~2 1/2~~ 1.25 miles by the usually traveled road from the residence of the pupil; or

(B) the residence of the pupil is outside the corporate limits of a city, the school building attended is inside the corporate limits of a city and the school building attended is more than ~~2 1/2~~ 1.25 miles by the usually traveled road from the residence of the pupil; or

(C) the residence of the pupil is inside the corporate limits of one city, the school building attended is inside the corporate limits of a different city and the school building attended is more than ~~2 1/2~~ 1.25 miles by the usually traveled road from the residence of the pupil.

(2) The provisions of this subsection are subject to the provisions of subsections (c) and (d).

(c) The board of education of every school district is authorized to adopt rules and regulations to govern the conduct, control and discipline of all pupils while being transported in school buses. The board may suspend or revoke the transportation privilege or entitlement of any pupil who violates any rules and regulations adopted by the board under authority of this subsection.

(d) The board of education of every school district may suspend or revoke the transportation privilege or entitlement of any pupil who is detained at school at the conclusion of the school day for violation of any rules and regulations governing pupil conduct or for disobedience of an order of a teacher or other school authority. Suspension or revocation of the transportation privilege or entitlement of any pupil specified in this subsection shall be limited to the school day or days on which the pupil is detained at school. The provisions of this subsection do not apply to any pupil who has been determined to be an exceptional child, except gifted children, under the provisions of the special education for exceptional children act.

(e) (1) Subject to the limitations specified in this subsection, the board of education of any school district may prescribe and collect fees to offset, totally or in part, the costs

incurred for the provision or furnishing of transportation for pupils. The limitations which apply to the authorization granted by this subsection are as follows:

(A) Fees for the provision or furnishing of transportation for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the provision or furnishing of transportation for pupils and only to the extent that such costs are not reimbursed from any other source provided by law;

(B) fees for the provision or furnishing of transportation may not be assessed against or collected from any pupil who is counted in determining the transportation weighting of the school district under the provisions of the school district finance and quality performance act or any pupil who is determined to be a child with disabilities under the provisions of the special education for exceptional children act or any pupil who is eligible for free or reduced price meals under the national school lunch act or any pupil who is entitled to transportation under the provisions of subsection (a) of K.S.A. 72-8306, and amendments thereto, and who resides ~~2 1/2~~ 1.25 miles or more by the regular route of a school bus from the school attended;

(C) fees for the provision or furnishing of transportation for pupils in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233 or 72-8307, and amendments thereto, shall be controlled by the provisions of the agreement.

(2) All moneys received by a school district from fees collected under this subsection shall be deposited in the general fund of the district.”;

And by renumbering the remaining sections accordingly;

Also on page 42, in line 41, before “72-6410” by inserting “72-979, 72-4419,”; in line 42, before “72-6421” by inserting “72-6411, 72-6412, 72-6413, as amended by section 16 of 2005 House Bill No. 2247, 72-6414, as amended by section 17, of 2005 House Bill No. 2247, 72-6415, 72- 6420,”;

On page 43, in line 1, before “72-9509” by inserting “72-6440, 72-6441, 72-6442, 72-6443, 72-6446,”; in line 4, by striking “and” and inserting “72-6409, as amended by section 13 of 2005 House Bill No. 2247, 72-6431, as amended by section 22 of 2005 House Bill No. 2247,”; in line 5, by striking “and” and inserting “72-8302, 79-3603, as amended by section 2 of 2005 Senate Bill No. 23, 79-3620, 79-3703, and 79-3710,”;

In the title, in line 11, after the semicolon by inserting “providing revenue therefor,”; in line 15, after the semicolon by inserting “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 Myers study,”; in line 17, before “72-6410” by inserting “72-4419,”; in line 18, before “72-6421” by inserting “72-6411, 72-6413, as amended by section 16 of 2005 House Bill No. 2247, 72-6414, as amended by section 17 of 2005 House Bill No. 2247, 72-6415, 72-6420,”; in line 21, by striking all following “Supp.”; in line 22, by striking all before “72-6407”; in line 23, by striking “and” and inserting “72-6409, as amended by section 13 of 2005 House Bill No. 2247, 72- 6431, as amended by section 22 of 2005 House Bill No. 2247,”; in line 24, by striking “and” and inserting “72-8302, 79-3603, as amended by section 2 of 2005 Senate Bill No. 23, 79-3620, 79-3703, and 79-3710,”; in line 29, before “72-6433” by inserting “72-979, 72-6412,”; in line 30, before the first “section” by inserting “72-6440, 72-6441, 72-6442, 72-6443, 72-6446, K.S.A. 2004 Supp. 72- 978, as amended by section 10 of 2005 House Bill No. 2247,”;

On roll call, the vote was: Yeas 0; Nays 116; Present but not voting: 5; Absent or not voting: 4.

Yeas: None.

Nays: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O’Malley, O’Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B.

Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Present but not voting: Flaharty, Flora, Grant, Lane, Loyd.

Absent or not voting: Kiegerl, Newton, Showalter, Winn.

The motion to recommend **H. Sub. for SB 3** favorably for passage did not prevail.

INTRODUCTION OF ORIGINAL MOTIONS

In accordance with House Rule 2306, Rep. Aurand moved that **SB 5** be withdrawn from the calendar and rereferred to Select Committee on School Finance.

REPORT ON ENROLLED RESOLUTIONS

HR 6005 reported correctly enrolled and properly signed on June 26, 2005.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Monday, June 27, 2005.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

