

SPECIAL SESSION

Journal of the Senate

FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, June 27, 2005—11:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Allen was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
We've caught a lot of flack
For what has not been done.
We've been called most everything
By almost everyone.
People have a right to gripe,
Of that we have no doubt;
Not all of *us* are happy
With how the session's turning out.
But it seems some what presumptuous
When in media and in letter
It is stated or implied
That they could do it better.
So we've thought it would be great
Since time immemorial,
To let the editors wrap it up,
And we'll write the editorials!
I pray in the Name of Jesus Christ,
AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:
Ways and Means: **SB 9**.

REPORTS OF STANDING COMMITTEES

Committee on Ways and Means recommends **SB 9** be reported without recommendation.

REPORT ON ENGROSSED BILLS

SCR 1603 reported correctly engrossed June 24, 2005.

On motion of Senator D. Schmidt, the Senate recessed until 4:00 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 10, An act concerning taxation; relating to increase in sales and use tax rates; income tax surtax; amending K.S.A. 2004 Supp. 79-32,110, 79-3603, as amended by section 2 of 2005 Senate Bill No. 23, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Ways and Means.

MESSAGE FROM THE HOUSE

Announcing rejection of **SCR 1603**.

COMMITTEE OF THE WHOLE

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

On emergency motion of Senator D. Schmidt **SB 9** was moved to the first order of business on the calendar under the heading of General Orders.

On motion of Senator Taddiken the following report was adopted.

Recommended **SB 9** be amended by motion of Senator Umbarger on page 1, in line 21, by striking all after the second comma; in line 22, by striking "2007."; by striking all in lines 32 through 43;

On page 2, by striking all in line 1;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 19, by striking "8.3%" and inserting "2.0%"; in line 24, by striking "8.3%" and inserting "2.0%";

On page 3, in line 17, by striking "\$8,016,322" and inserting "\$1,930,700";

On page 4, in line 1, by striking "\$275,088" and inserting "\$294,000"; in line 31, by striking "8.3%" and inserting "2.0%"; in line 34, by striking "\$819,762" and inserting "\$876,120";

On page 5, in line 31, by striking "\$4,613,986" and inserting "\$4,931,195";

On page 6, in line 5, by striking "\$2,750,878.50" and inserting "\$2,940,000";

In the title, in line 9, by striking "years" and inserting "year"; in line 10, by striking "and June 30, 2007."

Senator Wysong amended **SB 9** on page 6, following line 8, by inserting the following:

"Sec. 9. (a) On the effective date of this act, of the \$8,422,429 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 92 (a) of 2005 Senate Bill No. 225, from the state general fund in the operating expenditures account, the sum of \$304,922 is hereby lapsed.";

And by renumbering the remaining sections accordingly, and **SB 9** be passed as amended.

Senator Huelskamp moved to amend **SB 9** on page 2, in line 19, by striking "8.3%" and inserting "31.3%"; in line 24, by striking "8.3%" and inserting "31.3%";

On page 3, in line 17, by striking "\$8,016,322" and inserting "\$30,184,421";

On page 4, in line 1, by striking "\$275,088" and inserting "\$206,196"; in line 31, by striking "8.3%" and inserting "31.3%"; in line 34, by striking "\$819,762" and inserting "\$614,465";

On page 5, in line 31, by striking "\$4,613,986" and inserting "\$3,458,486";

On page 6, in line 5, by striking "\$2,750,878.50" and inserting "\$2,061,964"

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

On roll call, the vote was: Yeas 0, Nays 38, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Allen, Wilson.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. CHAIRMAN: I vote "NO" on the amendment to cut our state budget by some 30% plus, not because I necessarily believe that the study by Augenblick and Myers is inaccurate but because I do believe we, the Legislature, can have that revenue without any budget cut(s). Ancillary revenue includes: Gaming and a rosier revenue forecast. Further, the court did not call for the *full* amount recommended study.—DAVID HALEY

MR. CHAIRMAN: This amendment sought to implement the full scope of the Montoy v. State opinion of the Kansas Supreme Court, which hinges on the Augenblick and Myers study on school finance. This 0-38 vote reflects a clear rejection by the full Senate of the Supreme Court order and hence the A & M study. Together with a vote on a similar amendment yesterday in the House, there exists absolutely zero legislative support for the Court's order.—TIM HUELSKAMP

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 9** was advanced to Final Action and roll call.

SB 9, An act making and concerning appropriations for the fiscal year ending June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2004 Supp. 2-223, as amended by section 177 of 2005 Senate Bill No. 225, 76-775, as amended by section 181 of 2005 Senate Bill No. 225, 79-3425i, as amended by section 185 of 2005 Senate Bill No. 225, and 82a-953a, as amended by section 88 of 2005 Senate Substitute for House Bill No. 2482, and repealing the existing sections.

On roll call , the vote was: Yeas 18, Nays 19, Present and Passing 1, Absent or Not Voting 2.

Yeas: Apple, Brownlee, Bruce, Donovan, Huelskamp, Jordan, Journey, Morris, O'Connor, Palmer, Petersen, Pine, Pyle, D. Schmidt, V. Schmidt, Schodorf, Taddiken, Wagle.

Nays: Barnett, Barone, Betts, Brungardt, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Ostmeyer, Reitz, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Emler.

Absent or Not Voting: Allen, Wilson.

A constitutional majority having failed to vote in favor of the bill, **SB 9** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 9**. There is a better way.

I will not support cutting important programs for our children, the disabled, or the elderly. I believe there is a better way to fund Kansas schools than on the backs of our most vulnerable citizens.

I do not think it is right to cut our Regents schools, SRS, or veterans programs. There is a better way.

I do not think we should cut programs which increase public safety, such as the Juvenile Justice Authority, the KBI, or the Adjutant General. There is a better way.

I am committed to funding a first-class education for our children. I am also committed to funding schools with a real revenue stream. There is a better way than what we have before us today.

I believe expanded gaming, which polls show is overwhelmingly supported by Kansas citizens statewide and specifically voters in Wyandotte and Crawford counties, is that better way. — JIM BARONE

Senators Gilstrap, Haley, Hensley, Kelly and Steineger request the record to show they concur with the "Explanation of Vote" offered by Senator Barone on **SB 9**.

MR. PRESIDENT: I could support some spending cuts if they were part of a package that responsibly addressed our financial realities. The savings of \$38 million in arbitrary cuts pales in light of our 160 million dollar commitment to education and our future obligations.

A serious attempt to address new money should accompany this effort to limit spending. — PETE BRUNGARDT

MR. PRESIDENT: I strongly support **SB 9**. This is a difficult bill to support its affect is real. It is a bill that reduces the increase in spending budgeted in the 2005 session. Increasing taxes, which I oppose would inhibit economic growth. Growth in our economy is a prerequisite for revenue growth. Kansas Government must learn to live within its means. The 2% reduction is far more manageable than the 8.3% proposed. While some have attempted to characterize tax increases as the bravest thing to do I believe the opposite is true. Taking other people's money for our purposes is the easy way out. Living within our means as every Kansas family must do is a much tougher choice to make. This cut is so small that is .000345 of the total budget. Of the increase of nearly a billion dollars from 2004 to 2005 it is less than a 4% decrease. This is not as some may attempt to portray this bill as a budget cut it is only a reduction in the increase. It is about responsible government. Which is much better than having an unrepresentative arm of the Government do it for us. — PHILLIP B. JOURNEY

Senators O'Connor, Palmer and Pyle request the record to show they concur with the "Explanation of Vote" offered by Senator Journey on **SB 9**.

MR. PRESIDENT: I vote "no" on **SB 9** because it violates a basic principle I have set for myself as a legislator. This bill promises short-term benefits at great long-term expense. It will visit negative consequences on many of our most vulnerable citizens. The bill will do significant damage to public safety, higher education, homeland security, and many other programs and services. It will only benefit our ending balance by a nominal amount. This Legislature must begin solving our budget problems on a long-term basis rather than the short-term approach we have used for years. Otherwise, we are doomed to struggle with budget problems every year. — JOHN VRATIL

Senators Betts, Goodwin, Haley, Kelly, Lee, McGinn, Steineger, Teichman and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Vratil on **SB 9**.

On motion of Senator D. Schmidt the Senate adjourned until 1:30 p.m., Tuesday, June 28, 2005.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

