

SPECIAL SESSION

Journal of the Senate

EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, June 30, 2005—10:00 a.m.

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

Heavenly Father,
It's said laws are like sausage;
We'd all be afraid
To ever eat sausage
If we saw it being made.
Personally, I'd rather eat sausage
That pleased eighty-four,
Than sausage that's only
Pleased one and no more.
It's tough when two factions
Are convinced they are right
And when both of their causes
Make it hard to unite.
But we're now at a stage
When it's started irking
Legislators who need
To be at home working.
Families and jobs
And crops need attention.
They frankly could use
Some divine intervention.
Perhaps you can show them
What they have yet to see:
Something that would cause
Them all to agree.
But you've made it quite plain
That Your answers are rare
Unless they are always
Preceded by prayer.

So on their behalf
 I humbly beseech
 That You show them all how
 An agreement is reached.

I pray in the Name of Jesus Christ,
 AMEN

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Morris introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1808—

A RESOLUTION relating to the assignment of seats of the Senate.

Be it resolved by the Senate of the State of Kansas: The members of the 2005 special session of the legislature shall occupy the same seats they were assigned by Senate Resolution No. 1802 with the following exceptions: Senator Allen, seat no. 27, Senator Emler, seat no. 9.

On emergency motion of Senator D. Schmidt **SR 1808** was adopted unanimously.

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 Teichman in the chair.

On motion of Senator Teichman the following report was adopted.

The committee report on **HB 2004** recommending a **S Sub for HB 2004** be adopted, and the substitute bill be passed.

The following amendments offered to **S Sub for HB 2004** were rejected.

Senator Barnett moved to amend **S Sub for HB 2004** on page 18, in line 29, by striking "82nd" and inserting "78th"

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

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

Yeas: Apple, Barnett, Brownlee, Bruce, Donovan, Jordan, McGinn, O'Connor, Ostmeier, Petersen, Pine, Reitz, Wagle, Wilson.

Nays: Allen, Barone, Betts, Brungardt, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Journey, Kelly, Lee, Morris, Palmer, Pyle, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Emler

The motion failed and the amendment was rejected.

Senator Brownlee moved to amend **S Sub for HB 2004** on page 22, by striking all in lines 34 through 43;

On page 23, by striking all in lines 1 through 23 and inserting the following:

"Sec. 20.

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.....	\$41,250,000
For the fiscal year ending June 30, 2007.....	\$41,250,000
Supplemental general state aid	
For the fiscal year ending June 30, 2006.....	\$21,800,000
For the fiscal year ending June 30, 2007.....	\$21,800,000
Special education services aid	
For the fiscal year ending June 30, 2006.....	\$7,900,000
For the fiscal year ending June 30, 2007.....	\$7,900,000
Capital outlay state aid	
For the fiscal year ending June 30, 2006.....	\$9,000,000
For the fiscal year ending June 30, 2007.....	\$9,000,000

(b) If the provisions of 2005 House Bill No. 2247 and 2005 Senate Bill No. 43 regarding the increased local option budget (LOB) authority over 25%, which were stayed by the order of the Kansas supreme court in the supplemental opinion issued on June 3, 2005, in the case of *Montoy, et al., v. Kansas*, case No. 92,032, are not released from such stay ordered by the Kansas supreme court in that case and such release is not effective prior to September 1, 2005, then, (1) on September 1, 2005, the director of accounts and reports shall transfer \$3,000,000 from the \$21,800,000 appropriated for the department of education for the fiscal year ending June 30, 2006, by subsection (a) of this section from the state general fund in the supplemental general state aid account to the special education services aid account of the state general fund of the department of education and, (2) on September 1, 2005, upon such transfer of \$3,000,000 to the special education services aid account of the state general fund for fiscal year 2006, (A) such \$3,000,000 is hereby appropriated for the department of education from the state general fund for special education services aid for the fiscal year ending June 30, 2006, and (B) such \$3,000,000 is hereby lapsed from the \$21,800,000 appropriated for the department of education for the fiscal year ending June 30, 2006, by subsection (a) of this section from the state general fund in the supplemental general state aid account.

(c) If the provisions of 2005 House Bill No. 2247 and 2005 Senate Bill No. 43 regarding the increased local option budget (LOB) authority over 25%, which were stayed by the order of the Kansas supreme court in the supplemental opinion issued on June 3, 2005, in the case of *Montoy, et al., v. Kansas*, case No. 92,032, are not released from such stay ordered by the Kansas supreme court in that case and such release is not effective prior to July 1, 2006, then, (1) on July 1, 2006, the director of accounts and reports shall transfer \$3,000,000 from the \$21,800,000 appropriated for the department of education for the fiscal year ending June 30, 2007, by subsection (a) of this section from the state general fund in the supplemental general state aid account to the special education services aid account of the state general fund of the department of education and, (2) on July 1, 2006, upon such transfer of \$3,000,000 to the special education services aid account of the state general fund for fiscal year 2007, (A) such \$3,000,000 is hereby appropriated for the department of education from the state general fund for special education services aid for the fiscal year ending June 30, 2007, and (B) such \$3,000,000 is hereby lapsed from the \$21,800,000 appropriated for the department of education for the fiscal year ending June 30, 2007, by subsection (a) of this section from the state general fund in the supplemental general state aid account."

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

On roll call, the vote was: Yeas 13, Nays 25, Present and Passing 1, Absent or Not Voting 1.

Yeas: Barnett, Brownlee, Donovan, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Taddiken, Wagler,

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

Present and Passing: Wilson.

Absent or Not Voting: Emler

The motion failed and the amendment was rejected.

Senator Journey moved to amend **S Sub for HB 2004** on page 23, in line 34, preceding the period, by inserting “and on the date of the approval of the same concurrent resolution amending section 24 of article 2 of the constitution of the state of Kansas by both the Senate and House of Representatives of the Kansas legislature”

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

On roll call, the vote was: Yeas 15, Nays 23, Present and Passing 1, Absent or Not Voting 1.

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

Nays: Allen, Apple, Barone, Betts, Brungardt, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Morris, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: McGinn

Absent or Not Voting: Emler

The motion failed and the amendment was rejected.

Senator Apple moved to amend **S Sub for HB 2004** on page 3, in line 5, by striking “1,659” and inserting “1,671”; in line 7, by striking “1,659” and inserting “1,671”;

On page 14, in line 11, by striking “1,659” and inserting “1,671”; in line 14, by striking “1,659” and inserting “1,671”;

On page 15, in line 23, by striking “1,659” and inserting “1,671”; in line 26, by striking “1,659” and inserting “1,671”; in line 33, by striking “\$4,261” and inserting “\$4,250”;

On page 16, in line 41, by striking “1,659” and inserting “1,671”;

On page 17, in line 3, by striking “1,659” and inserting “1,671”;

On page 18, in line 29, by striking “82nd” and inserting “80th”;

On page 20, in line 6, by striking “\$39” and inserting “\$28”;

On page 22, in line 39, by striking “\$82,500,000” and inserting “\$70,500,000”; in line 41, by striking “\$43,600,000” and inserting “\$37,600,000”

On roll call, the vote was: Yeas 14, Nays 23, Present and Passing 2, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Bruce, Donovan, Jordan, Journey, McGinn, O'Connor, Petersen, Pine, Taddiken, Wagle, Wilson.

Nays: Allen, Barone, Betts, Brungardt, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Kelly, Morris, Ostmeyer, Palmer, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Francisco, Lee.

Absent or Not Voting: Emler

The motion failed and the amendment was rejected.

SB 4 be amended by motion of Senator Umbarger on page 2, by striking all in lines 14 through 43;

On page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 through 12;

And by renumbering the remaining section accordingly

Senator Umbarger further amended **SB 4** on page 4, following line 12, by inserting the following:

“Sec. 7.

STATE BOARD OF INDIGENTS' DEFENSE SERVICES

(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 section accordingly

Senator Umbarger further amended **SB 4** on page 4, after line 12, by inserting the following:

“Sec. 7. Section 83 of 2005 Senate Substitute for House Bill No. 2482 is hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 9, by striking “year” and inserting “years”; in line 10, after the second comma by inserting “and June 30, 2007,”; in line 13, before the period by inserting “; relating

to the disclosure of expenditures; repealing section 83 of 2005 Senate Substitute for House Bill No. 2482", and **SB 4** be passed as amended.

SB 1 be amended by motion of Senator Pyle on page 8, after line 12, by inserting the following:

"Sec. 5. K.S.A. 2004 Supp. 79-5107, as amended by section 1 of 2005 House Bill No. 2187, is hereby amended to read as follows: 79-5107. (a) Except as provided in subsection (e), the tax imposed by this act upon any motor vehicle, other than a motor vehicle which replaces a motor vehicle previously registered and taxed in this state and to which registration plates are transferred, which has been acquired, or brought into the state, or for any other reason becomes subject to registration after the owner's regular annual motor vehicle registration date, shall become due and payable at the time such motor vehicle becomes subject to registration under the laws of this state and the amount of tax to be paid by the owner for the remainder of the tax year shall be an amount which is equal to $\frac{1}{12}$ of the tax which would have been due upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in the registration year of the owner of such vehicle. Such tax shall be paid at the time of the registration of such motor vehicle.

(b) Except as provided in subsection (e), the tax upon a motor vehicle, which replaces a motor vehicle previously registered and taxed in this state and to which registration plates are transferred, which is registered at any time other than the annual registration date prescribed by law for the registration of such motor vehicle, shall be in an amount equal to the amount by which: (1) One-twelfth of the tax which would have been due upon such replacement motor vehicle for the full registration year multiplied by the number of full calendar months remaining in the registration year for such motor vehicle, exceeds (2) one-twelfth of the tax which would have been due for the full registration year upon the motor vehicle replaced multiplied by the number of full calendar months remaining in such registration year. Such tax shall be paid at the time of registration of such replacement vehicle.

(c) Whenever the tax imposed under this act has been paid upon any motor vehicle and title to such vehicle is transferred and no replacement vehicle is substituted therefor such taxpayer shall be entitled to a refund in an amount equal to $\frac{1}{12}$ of the tax due upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in such registration year. Whenever the tax imposed under this act upon any replacement motor vehicle for the remainder of the registration year is less than the tax paid on the motor vehicle replaced for the remainder of such registration year, the taxpayer shall be entitled to a refund in the amount by which the tax paid upon the vehicle replaced exceeds the tax due upon the replacement vehicle. All refunds shall be paid by the county treasurer from the moneys received from taxes upon motor vehicles imposed by this act which have not been distributed. No refund shall be made under the authority of this subsection for a sum less than \$5.

(d) Whenever the tax imposed under this act has been paid upon any motor vehicle and the owner thereof has established residence in another state during such vehicle's registration year, such owner shall be entitled to a refund of such taxes in an amount equal to $\frac{1}{12}$ of the tax paid upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in such registration year after the month of establishing residence in another state. No such refund shall be allowed unless and until the owner submits to the county treasurer evidence of a valid driver's license and motor vehicle registration in another state, and surrenders the Kansas license plate. All refunds shall be paid by the county treasurer from the moneys received from taxes upon motor vehicles which have not been distributed. No refund shall be made for a sum less than \$5.

(e) (1) No tax shall be levied under the provisions of this act upon not more than two motor vehicles which are owned by a resident individual:

(A) Who is in the full-time military service of the United States, is absent from this state solely by reason of military orders on the date of such individual's application for registration and such motor vehicles are maintained by such individual outside of this state; or

(B) who is a member of the military service of the United States and is mobilized or deployed on the date of such individual's application for registration.

(2) *The owner of a motor vehicle not subject to tax pursuant to the provisions of subsection (e)(1) who has paid the tax levied under the provisions of K.S.A. 79-5101, and amendments thereto, may apply for a refund with the county treasurer not later than one year from the effective date of this act. The county treasurer shall refund any such taxes previously paid by such owner of a motor vehicle.*

The provisions of this subsection shall be applicable on and after December 31, ~~2004~~ 2003.

Sec. 6. K.S.A. 2004 Supp. 79-5107, as amended by section 1 of House Bill No. 2187 is hereby repealed.”;

And by renumbering sections accordingly;

Also on page 1, in the title, in line 9, after “concerning” by inserting “certain members of military service; relating to”; in line 11, after the semicolon, by inserting “exemptions from taxation of motor vehicles;”; in line 14, after “2537,” by inserting “and 79-5107, as amended by section 1 of 2005 House Bill No. 2187,”

Senator Umbarger amended **SB 1** on page 8, after line 12, by inserting the following:

“Sec. 5.

ADJUTANT GENERAL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2006, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

National guard life insurance premium reimbursement fund	\$390,000
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(b) On the effective date of this act, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$390,000 from the state general fund to the national guard life insurance premium reimbursement fund of the adjutant general.”;

And by renumbering the remaining sections accordingly;

In the title, in line 11, after the semicolon by inserting “making and concerning appropriations for the fiscal year ending June 30, 2006, for the adjutant general;”, and **SB 1** be passed as amended.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 3**, as amended by **House Substitute for Senate Bill 3**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **H Sub for SB 3** and requested a conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

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 1**, **SB 4**; **S Sub for HB 2004** were advanced to Final Action and roll call.

SB 1, An act concerning certain members of military service; relating to the adjutant general; providing for reimbursement for certain life insurance premiums coverage; creating the national guard life insurance premium reimbursement fund; exemptions from taxation of motor vehicles; making and concerning appropriations for the fiscal year ending June 30, 2006, for the adjutant general; amending K.S.A. 75-3713b, as amended by section 3 of 2005 Senate Substitute for House Bill No. 2518, and K.S.A. 2004 Supp. 79-32,117, as amended by section 21 of 2005 House Bill No. 2537, and 79-5107, as amended by section 1 of 2005 House Bill No. 2187, and repealing the existing sections; also repealing section 1 of 2005 Senate Substitute for House Bill No. 2518.

On roll call the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, 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, Wilson, Wysong.

Absent or Not Voting: Emler.

The bill passed, as amended.

SB 4, An act making and concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, 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; relating to the disclosure of expenditures; repealing section 83 of 2005 Senate Substitute for House Bill No. 2482.

On roll call the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, 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, Wilson, Wysong.

Absent or Not Voting: Emler.

The bill passed, as amended.

S Sub for HB 2004, An act concerning schools and school districts; 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, for the department of education; amending K.S.A. 72-6410, as amended by section 14 of 2005 House Bill No. 2247, 72-6412, as amended by section 15 of 2005 House Bill No. 2247, 72-6414, as amended by section 17 of 2005 House Bill No. 2247, 72-6426, 79-1801 and section 3 of 2005 House Bill No. 2247, and K.S.A. 2004 Supp. 72-978, as amended by section 10 of 2005 House Bill No. 2247, 72-6407, as amended by section 16 of 2005 Senate Bill No. 43, and 72-6434, as amended by section 24 of 2005 House Bill No. 2247, and repealing the existing sections; also repealing K.S.A. 46-1222, 46-1223, 46-1224 and section 13 of 2005 Senate Bill No. 43.

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

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

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

Absent or Not Voting: Emler.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I have concern about the fiscal wisdom of **S Sub for HB 2004**. This measure exceeds the court's order by \$17 million, it lacks a reliable revenue source, and it avoids funding the state's anticipated portion of KPERs.

I know many people have worked hard at arriving to the outcomes contained in this bill. During this session many have felt frustration with the process and the agony of defeat.

However, I remain hopeful that political differences are cast aside and an acceptable solution can be reached in conference committee.

In the meantime I am reluctant to indulge the temptation of voting for this measure out of frustration or out of fear that this may be the last chance to vote for education, which I truly value as a public institution.

I vote NO. — TERRY BRUCE

MR. PRESIDENT: While it was a court order of the Kansas Supreme Court that brought us to this special session, this is a good bill for the children of Kansas.

I am hopeful that legislators across the rotunda will meet their responsibility, as the Kansas Senate has met its responsibility, to Kansas school children and parents by supporting this common sense solution for improving the quality and equity of our schools.

I am also hopeful the Speaker of the House will not declare this bill materially altered.

I am hopeful he will instead allow the House to vote up or down on this bill and bring closure to the 2005 special session of the Kansas Legislature.

Seven days have elapsed since the Senate passed our first school finance solution. Since then, \$238,000 of taxpayers' money has been spent. In the last week, little has been done in the House and chaos seems to have ensued. This bill represents cooperation and compromise between the House and Senate.

I vote yes on this bill because my most important constitutional duty is to ensure that every Kansas child is given the best education possible. — ANTHONY HENSLEY

Senators Betts, Goodwin and Wysong request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub for HB 2004**.

REPORT ON ENROLLED BILLS

SR 1807 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on June 30, 2005.

On motion of Senator D. Schmidt the Senate adjourned until 10:30 a.m., Friday, July 1, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

