

JUNE 23, 2016

1

SPECIAL SESSION

# Journal of the Senate

FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, June 23, 2016, 8:00 a.m.

Pursuant to the Governor's notification of June 8, 2016, the Senate convened for a Special Session of the Kansas Legislature with President Susan Wagle in the chair.

President Wagle introduced the Honorable Bryan Caskey, Director of Elections, who delivered the following message:

**PROCLAMATION CALLING THE LEGISLATURE  
INTO SPECIAL SESSION  
TO ADDRESS SCHOOL FINANCE**

TO THE PEOPLE OF THE STATE OF KANSAS, GREETINGS:

WHEREAS, the State of Kansas has outstanding public schools; and

WHEREAS, the State of Kansas has appropriated more than \$4 billion, a record amount of funding, to ensure the high quality of those public schools; and

WHEREAS, the State of Kansas recognizes the importance of high quality public schools in preparing our children to be successful adults; and

WHEREAS, Article 6, Section 6(b) of the Constitution of the State of Kansas provides that the "legislature shall make suitable provision for finance of the educational interests of the state;" and

WHEREAS, the ruling of the Kansas Supreme Court in *Gannon v. State of Kansas* has created an extraordinary occasion pursuant to Article 1, Section 5 of the Constitution of the State of Kansas, in which the Kansas Supreme Court has threatened to cause the closure of all Kansas public schools;

NOW, THEREFORE, I, Sam Brownback, GOVERNOR OF THE STATE OF KANSAS, by the authority vested in me by the Constitution of the State of Kansas, do hereby call the Legislature of the State of Kansas into Special Session to address school finance at the Capitol in Topeka, Kansas, on the 23rd day of June, 2016, at the hour of 8:00 o'clock a.m., to enact legislation to respond to the ruling of the Kansas Supreme Court in *Gannon v. State of Kansas*.

DONE:

At the Capitol in Topeka  
under the Great Seal of the State  
this 8th Day of June, A.D. 2016

BY THE GOVERNOR:

SAM BROWNBACK

KRIS W. KOBACH  
*Secretary of State*

DESIREE TALIAFERRO  
*Assistant Secretary of State*

In accordance with the provision of the Constitution of the State of Kansas and the Proclamation as read, President Wagle called the 2016 Special Session of the Legislature to order.

Roll was called with 38 senators present.

<b>District</b>	<b>District</b>
1. Dennis Pyle	21. Greg A. Smith
2. Marci Francisco	22. Tom Hawk
3. Tom Holland	23. Rob Olson
4. David Haley	24. Tom Arpke
5. Steve Fitzgerald	25. Michael O'Donnell
7. Kay Wolf	26. Dan Kerschen
8. Jim Denning	27. Leslie D. "Les" Donovan, Sr.
9. Julia Lynn	28. Mike Petersen
10. Mary Pilcher-Cook	29. Oletha Faust-Goudeau
11. Jeff Melcher	30. Susan Wagle
12. Caryn Tyson	31. Carolyn McGinn
13. Jacob LaTurner	33. Mitch Holmes
14. Forest J. Knox	34. Terry Bruce
15. Jeff King	35. Rick Wilborn
16. Ty Masterson	36. Elaine S. Bowers
17. Jeff Longbine	37. Molly Baumgardner
18. Laura Kelly	38. Garrett Love
19. Anthony Hensley	39. Larry R. Powell
20. Vicki L. Schmidt	40. Ralph Ostmeyer

Senator Abrams, District 32 and Senator Pettey, District 6 were excused.

The Senate Chaplain, Reverend Cecil Washington, introduced guest chaplain, Reverend Fred Holloman who previously served as Chaplain of the Senate for 31 years, to deliver the invocation:

Heavenly Father,  
 Some think that Sunday only  
 Is the day God is alive,  
 And church the only place  
 In which You can survive.  
 Some say if You escape.  
 They'll stop You at our door,  
 Since government and God  
 Can't be friendly anymore.  
 But I need You in the State House,  
 And I need You every day;  
 Church is not the only place  
 Where I need to pray.

I need You in the chambers,  
 And I need You in the halls;  
 I need You in lots of places  
 Outside the church's walls.  
 I need You in the office,  
 And I need You in committee;  
 I need You when we're getting down  
 To the nitty-gritty.  
 I'm thankful, Lord, You're not confined  
 To some sanctuary;  
 You're always near to help me fight  
 My daily adversary.

In the Name of Christ, Amen.

The Pledge of Allegiance was led by President Wagle.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Wagle, Bruce and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1701—

A RESOLUTION relating to the organization of the Senate.

*Be it resolved by the Senate of the State of Kansas:* That the Secretary of the Senate notify the House of Representatives that the Senate is organized with the following officers:

Susan Wagle, president,  
 Jeff King, vice-president,  
 Terry Bruce, majority leader,  
 Anthony Hensley, minority leader,  
 Corey Carnahan, secretary,  
 Charles (Nick) Nicolay, sergeant at arms,  
 and awaits the pleasure of the House of Representatives.

On emergency motion of Senator Bruce **SR 1701** was adopted unanimously.

**INTRODUCTION OF SENATE CONCURRENT RESOLUTION**

SENATE CONCURRENT RESOLUTION No. 1601—

By Senators Wagle, Bruce and Hensley

A CONCURRENT RESOLUTION relating to a committee to inform the governor that the two houses of the legislature are duly organized and ready to receive communications.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the governor, and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

On emergency motion of Senator Bruce **SR 1601** was adopted unanimously.

President Wagle appointed Senators Baumgardner and Kelly to notify the Governor that the Senate is organized and ready to receive communications.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 1**, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2017, and June 30, 2018, for certain agencies; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing, by Committee on Ways and Means.

**SB 2**, AN ACT concerning controlled substances; relating to the uniform controlled substances act; substances included in schedule I; amending K.S.A. 2015 Supp. 65-4105, as amended by section 2 of 2016 House Bill No. 2018 and repealing the existing section, by Committee on Judiciary.

**SB 3**, AN ACT concerning education; relating to the financing and instruction thereof; making and concerning appropriations for the fiscal years ending June 30, 2017, and June 30, 2018, for certain agencies; relating to the classroom learning assuring student success act; repealing the tax credit for low income students scholarship program act; amending K.S.A. 2015 Supp. 72-3715, 72-6463, as amended by section 6 of 2016 Senate Substitute for House Bill No. 2655, 72-6481, as amended by section 10 of 2016 Senate Substitute for House Bill No. 2655 and 79-32,138 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 72-6476, as amended by section 9 of 2016 Senate Substitute for House Bill No. 2655, 72-99a01, 72-99a02, 72-99a03, 72-99a04, 72-99a05, 72-99a06 and 72-99a07 and sections 2, 3 and 5 of 2016 Senate Substitute for House Bill No. 2655, by Committee on Ways and Means.

The following concurrent resolutions were introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1602—

By Committee on Judiciary

A PROPOSITION to amend article 6 of the constitution of the state of Kansas by amending section 6 thereof to define the legal remedies for violations of article 6.

*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 6 of article 6 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 6. **Finance.** (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) *In any civil action in which a statute or other legislative enactment of this state has been held unconstitutional as a violation of this article, no court shall have the authority to order a school district or any attendance center within a school district to be closed, or make or enforce any other order or remedy, the effect of which is to prohibit the expenditure of funds such that a school district or any attendance center within a school district shall not operate. Nor shall the legislature have such authority when its action is in direct response to a court ruling that a statute or other legislative enactment of this state has been held unconstitutional as a violation of this article.*

(e) (d) No religious sect or sects shall control any part of the public educational funds."

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 limit the legal remedies available to both the courts of this state and the legislature by prohibiting the closure of schools as a legal remedy in cases where a law is held to be unconstitutional as a violation of article 6 of the constitution of the state of Kansas.

"A vote for this proposition would prohibit courts in this state from issuing any order to close one or more schools as a remedy in a lawsuit where a law is held to be unconstitutional as a violation of article 6 of the constitution of the state of Kansas. It would also prohibit the legislature from enacting any law that would close one or more schools if such law is in direct response to a court ruling that a law is unconstitutional as a violation of article 6 of the constitution of the state of Kansas.

"A vote against this proposition would make no changes to current law, and courts would be able to continue issuing orders that could have the effect of closing schools, and the legislature would retain authority to close schools by law."

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 the primary election in August in the year 2016, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

## SENATE CONCURRENT RESOLUTION No. 1603—

By Committee on Judiciary

A PROPOSITION to amend article 6 of the constitution of the state of Kansas by creating a new section prohibiting the denial of a public education.

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

**"Article 6.—EDUCATION"**

**"§11. Denial of public education prohibited.** In any civil action in which a statute or other legislative enactment of this state has been held unconstitutional as a violation of this article, no court shall issue any order, the effect of which is to close schools or otherwise deny the provision of public education that is required by section 1 of this article, nor shall the legislature, in direct response to such court action, pass a statute or other legislative enactment that would close schools."

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 limit the legal remedies available to both the courts of this state and the legislature by prohibiting the closure of schools or otherwise denying the provision of public education in cases where a law is held to be unconstitutional as a violation of article 6 of the constitution of the state of Kansas.

"A vote for this proposition would add a new section to article 6 of the constitution of the state of Kansas that would prohibit both the legislature and the courts of this state from denying public education to the children in this state.

"A vote against this proposition would make no changes to the current authority granted by the constitution of the state of Kansas to the legislature and the courts of this state with respect to public education."

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 the primary election in August in the year 2016, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

**REFERRED TO COMMITTEE**

The President referred **SB 1** to the Committee on **Ways and Means**.

The President referred **SCR 1602, SCR 1603** to Committee on **Judiciary**.

**CHANGE OF COMMITTEE ASSIGNMENT**

For all meetings of the Committee on **Judiciary** held June 23 and 24, the chair appoints the senator from Shawnee, Senator Hensley to replace the senator from Wyandotte, Senator Pettey.

On motion of Senator Bruce, the Senate recessed until 3:00 p.m.

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The Senate met pursuant to recess with Vice President Jeff King in the chair.

**MESSAGE FROM THE HOUSE**

Announcing adoption of **HR 6001**, a resolution relating to the organization of the House of Representatives:

*Be it resolved by the House of representatives of the State of Kansas:*

That the chief clerk of the House of Representatives notify the senate that the House is organized with the following officers:

Ray Merrick, Speaker  
Peggy Mast, Speaker Pro Tem,  
Jene Vickrey, Majority Leader,  
Tom Burroughs, Minority Leader  
Susan Kannarr, Chief Clerk  
Foster Chisholm, Sergeant at Arms,

and await the pleasure of the Senate.

Announcing adoption of **SCR 1601**, a concurrent resolution creating a committee to inform the Governor that the legislature is organized and ready to receive communications. Representatives Rahjes, Weber and Scott are appointed to wait upon the Governor.

**REPORTS OF STANDING COMMITTEES**

Committee on **Judiciary** recommends **SCR 1602** be amended on page 2, in line 31, by striking "primary" and inserting "general"; also in line 31, by striking "August" and inserting "November"; and the resolution be adopted as amended.

Committee on **Ways and Means** recommends **SB 1** be passed.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Friday, June 24, 2016.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*  
COREY CARNAHAN, *Secretary of the Senate.*

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