

SPECIAL SESSION OF 2005

**SUPPLEMENTAL NOTE ON
SENATE CONCURRENT RESOLUTION 1603**

As Amended by Senate Committee on
Judiciary

Brief*

SCR 1603 would amend the Legislative Article of the *Kansas Constitution* dealing with appropriations to clarify that only the Legislature may appropriate moneys. The proposed constitutional amendment would add language stating that 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 Legislature may provide by law or as may be required by the *Constitution of the United States*.

The amendment would be submitted to the electors of Kansas at a special election called 60 days after passage by two-thirds vote of both Houses of the Legislature.

Background

The proposed constitutional amendment was supported by Senator Journey and Senator Jordan, Representative Kinzer, and a law professor from the University of Missouri at Kansas City School of Law.

Proponents said a clarification of the *Kansas Constitution* was needed in light of the recent Kansas Supreme Court decision of *Montoy v. Kansas* (2005) which ordered the Legislature to appropriate \$285 million over previous spending levels in 2005-2006. Concern was expressed that the Court may dictate expenditure levels in other areas besides education if nothing is done to address the *Montoy* decision.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The Kansas Attorney General advocated a constitutional amendment that would prevent closure of Kansas public schools.

The proposed constitutional amendment was opposed by the President of the Kansas Bar Association who said the independence of the Kansas Judicial Branch needed to be respected. The proposed amendment was also opposed by a representative of the Kansas Association of School Boards and the Kansas National Education Association.