

Journal of the Senate

TWENTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 14, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.

The roll was called with thirty-nine senators present.

Senator Schodorf was excused.

President Kerr introduced as guest chaplain, Rev. Art O'Connor, Olathe, Kansas, who delivered the invocation:

He Loves You
By Helen Steiner Rice

It's amazing and incredible,
But it's true as it can be
God loves and understands us all,
And that means you and me—

His Grace is all sufficient,
For both the young and old,
For the lonely and the timid,
For the brash and for the bold

His love knows no exceptions,
So, never feel excluded,
No matter who or what you are,
Your name has been included—

And no matter what your past has been,
Trust God to understand,
And no matter what your problem is,
Just place it in his hand—

For in all of our unloveliness,
This great God loves us still,
He's loved us since the world began,
And what's more, he always will.

Let us now pray,

God, we pray for your richest blessings on the members of this assembly, who are devoted to helping their brothers and sisters.

Your greatest commandment is observed this day which we call Valentine's Day: "You shall love your God with your whole heart, and with your whole soul and with all your mind. This was your first. The second is like it; you shall love your neighbor as yourself."

May these words be emblazoned in our thoughts as we go about the decisions that are made today.

O God, hear our prayer, Amen.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 321, An act concerning oil and gas; relating to the abandoned oil and gas well fund; concerning certain transfers to such fund; amending K.S.A. 2000 Supp. 55-193 and repealing the existing section, by Committee on Ways and Means.

SB 322, An act concerning the Kansas public employees retirement system; relating to assignment of certain positions under the Kansas civil service act; amending K.S.A. 2000 Supp. 74-4908 and repealing the existing section, by Committee on Ways and Means.

SB 323, An act concerning local units of government; relating to minimum codes for cities and counties, by Committee on Federal and State Affairs.

SB 324, An act concerning state gaming revenues and the use thereof; making and concerning appropriations for the fiscal year ending June 30, 2002, for the department of commerce and housing; amending K.S.A. 2000 Supp. 79-4804 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 318, SB 320; HB 2063.**

Education: **SB 313; HB 2188.**

Elections and Local Government: **SB 314.**

Federal and State Affairs: **SB 317.**

Judiciary: **HB 2082, HB 2084, HB 2178, HB 2194, HB 2208.**

Public Health and Welfare: **SB 319.**

Transportation: **HB 2143, HB 2184.**

Ways and Means: **SB 315, SB 316.**

COMMUNICATIONS FROM STATE OFFICERS

KANSAS ADVISORY GROUP ON
JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Rochelle R. Chronister, Chair, Kansas Advisory Group on Juvenile Justice and Delinquency Prevention, submitted the 2000 Annual Report.

BOARD OF INDIGENTS' DEFENSE SERVICES

The Board of Indigents' Defense Services submitted the Annual Report for Fiscal Year 2000.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2068, HB 2094, HB 2101, HB 2114, HB 2115, HB 2137; Substitute HB 2244.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2068, HB 2094, HB 2101, HB 2114, HB 2115, HB 2137; Substitute HB 2244 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 18** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Feleciano as a conference committee on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Public Health and Welfare** recommends **SB 239** be passed.

Also **SB 195** be amended on page 2, in line 4, by striking "name" and inserting "home"; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 35, SB 37, SB 63, SB 97, SB 107, SB 115, SB 125, SB 148, SB 213, SB 242; SCR 1607 reported correctly engrossed February 14, 2001.

COMMITTEE OF THE WHOLE

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

On motion of Senator Corbin the following report was adopted:

Recommended **SB 73, SB 101, SB 163, SB 216, SB 252** be passed.

SB 127, SB 257 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 139 be amended by motion of Senator Oleen on page 1, in line 28, by striking “or” and inserting a comma; also in line 28, after “bison” by inserting “or any creature of the ratite family, including but not limited to, an ostrich, emu or rhea”, and **SB 139** be passed as amended.

HB 2038 be amended by adoption of the committee amendments, be further amended by motion of Senator Barone as amended by Senate Committee, on page 13, following line 3, by inserting:

“Sec. 4. K.S.A. 2000 Supp. 74-8705 is hereby amended to read as follows: 74-8705. (a) Major procurement contracts shall be awarded in accordance with K.S.A. 75-3738 through 75-3744, and amendments thereto, or subsection (b), as determined by the director, except that:

(1) The contract or contracts for the initial lease of facilities for the Kansas lottery shall be awarded upon the evaluation and approval of the director, the secretary of administration and the director of architectural services;

(2) The commission shall designate certain major procurement contracts or portions thereof to be awarded, in accordance with rules and regulations of the commission, solely to minority business enterprises.

(b) The director may award any major procurement contract by use of a procurement negotiating committee. Such committee shall be composed of: (1) The executive director or a Kansas lottery employee designated by the executive director; (2) the chairperson of the commission or a commission member designated by the chairperson; and (3) the director of the division of purchases or an employee of such division designated by the director. Prior to negotiating a major procurement contract, the committee shall solicit bids or proposals thereon. The division of purchases shall provide staff support for the committee’s solicitations. Upon receipt of bids or proposals, the committee may negotiate with one or more of the persons submitting such bids or proposals and select from among such persons the person to whom the contract is awarded. Such procurements shall be open and competitive and shall consider relevant factors, including security, competence, experience, timely performance and maximization of net revenues to the state. If a procurement negotiating committee is utilized, the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, shall not apply. Meetings conducted by the procurement negotiating committee shall be exempt from the provisions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320a, and amendments thereto.

(c) Before a major procurement contract is awarded, the executive director shall conduct a background investigation of: (1) The vendor to whom the contract is to be awarded; (2) all officers and directors of such vendor; (3) all persons who own a 5% or more interest in such vendor; (4) all persons who own a controlling interest in such vendor; and (5) any subsidiary or other business in which such vendor owns a controlling interest. The vendor shall submit appropriate investigation authorizations to facilitate such investigation. The executive director may require, in accordance with rules and regulations of the commission, that a vendor submit any additional information considered appropriate to preserve the integrity and security of the lottery. In addition, the executive director may conduct a background investigation of any person having a beneficial interest in a vendor. The secretary of revenue, securities commissioner, attorney general and director of the Kansas bureau of

investigation shall assist in any investigation pursuant to this subsection upon request of the executive director. Whenever the secretary of revenue, securities commissioner, attorney general or director of the Kansas bureau of investigation assists in such an investigation and incurs costs in addition to those attributable to the operations of the office or bureau, such additional costs shall be paid by the Kansas lottery. The furnishing of assistance in such an investigation shall be a transaction between the Kansas lottery and the respective officer and shall be settled in accordance with K.S.A. 75-5516, and amendments thereto.

Upon the request of the chairperson, the Kansas bureau of investigation and other criminal justice agencies shall provide to the chairperson all background investigation information including criminal history record information, arrest and nonconviction data, criminal intelligence information and information relating to criminal and background investigations of a vendor to whom a major procurement contract is to be awarded. Such information, other than conviction data, shall be confidential and shall not be disclosed, except as provided in this section. In addition to any other penalty provided by law, disclosure of such information shall be grounds for removal from office or termination of employment.

(d) All major procurement contracts shall be subject to approval of the commission.

(e) *The executive director shall not agree to any renewal or extension of a major procurement contract unless such extension or renewal is awarded in the manner provided by subsection (a).;*

By renumbering sections;

Also on page 13, in line 4, following "Supp." by inserting "74-8705,";

In the title, in line 24, following "Supp." by inserting "74-8705,"

HB 2038 be further amended by motion of Senator Barnett, as amended by Senate Committee, on page 1, in line 33, by striking "2008" and inserting "2004"

Senator Feleciano moved to amend **HB 2038** as amended by Senate Committee, on page 13, by striking all in lines 4 and 5 and inserting:

"New Sec. 4.

DEPARTMENT OF COMMERCE AND HOUSING

(a) There is appropriated for the above agency from the state economic development initiatives fund for the fiscal year ending June 30, 2002, the following:

Wichita airport planning assistance \$100,000

Provided, That all expenditures from the Wichita airport planning assistance account shall be for the development of a plan to reduce the costs of air transportation services for individuals, businesses and public agencies traveling into or out of the Wichita airport on commercial air carriers: *Provided further*, That all expenditures from this account shall be matched on a \$1 for \$1 basis by moneys provided by the city of Wichita, Sedgwick county or other local public sources or private sources.

Sec. 5. K.S.A. 2000 Supp. 79-4804 is hereby amended to read as follows: 79-4804. (a) After the transfer of moneys pursuant to K.S.A. 2000 Supp. 79-4806, and amendments thereto, an amount equal to 85% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the state economic development initiatives fund. Expenditures from the state economic development initiatives fund shall be made in accordance with appropriations acts for the financing of such programs supporting and enhancing the existing economic foundation of the state and fostering growth through the expansion of current, and the establishment and attraction of new, commercial and industrial enterprises as provided by this section and as may be authorized by law and not less than of such money shall be distributed equally among the congressional districts of the state. Except as provided by subsection (g), all moneys credited to the state economic development initiatives fund shall be credited within the fund, as provided by law, to an account or accounts of the fund which are created by this section.

(b) There is hereby created the Kansas capital formation account in the state economic development initiatives fund. All moneys credited to the Kansas capital formation account shall be used to provide, encourage and implement capital development and formation in Kansas.

(c) There is hereby created the Kansas economic development research and development account in the state economic development initiatives fund. All moneys credited to the Kansas economic development research and development account shall be used to promote,

encourage and implement research and development programs and activities in Kansas and technical assistance funded through state educational institutions under the supervision and control of the state board of regents or other Kansas colleges and universities.

(d) There is hereby created the Kansas economic development endowment account in the state economic development initiatives fund. All moneys credited to the Kansas economic development endowment account shall be accumulated and invested as provided in this section to provide an ongoing source of funds which shall be used for economic development activities in Kansas, including but not limited to continuing appropriations or demand transfers for programs and projects which shall include, but are not limited to, specific community infrastructure projects in Kansas that stimulate economic growth.

(e) Except as provided in subsection (f), the director of investments may invest and reinvest moneys credited to the state economic development initiatives fund in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, in the pooled money investment portfolio. All moneys received as interest earned by the investment of the moneys credited to the state economic development initiatives fund shall be deposited in the state treasury and credited to the Kansas economic development endowment account of such fund.

(f) Moneys credited to the Kansas economic development endowment account of the state economic development initiatives fund may be invested in government guaranteed loans and debentures as provided by law in addition to the investments authorized by subsection (e) or in lieu of such investments. All moneys received as interest earned by the investment under this subsection of the moneys credited to the Kansas economic development endowment account shall be deposited in the state treasury and credited to the Kansas economic development endowment account of the state economic development initiatives fund.

(g) In each fiscal year, the director of accounts and reports shall make transfers in equal amounts on July 15 and January 15 which in the aggregate equal \$2,000,000 from the state economic development initiatives fund to the state water plan fund created by K.S.A. 82a-951, and amendments thereto. No other moneys credited to the state economic development initiatives fund shall be used for: (1) Water-related projects or programs, or related technical assistance; or (2) any other projects or programs, or related technical assistance, which meet one or more of the long-range goals, objectives and considerations set forth in the state water resource planning act.

(h) In each fiscal year, the director of accounts and reports shall make transfers in equal amounts on July 15 and January 15 which in the aggregate equal \$2,500,000 from the airport services improvement matching grant fund created by section 6, and amendments thereto.

New Sec. 6. (a) The secretary of commerce and housing shall appoint a planning commission to prepare a plan which establishes and implements a financial incentive program which shall be known as the airport services improvement program. Such planning commission shall be composed of at least seven persons representing the city of Wichita, Sedgwick county, Mid-Continent Airport and other persons the secretary deems appropriate. The secretary or the secretary's designee shall serve as the chairperson of the commission.

The plan shall include provisions relating to airport services improvement, grants and other financial incentives for development and improvement of airline services from airports to reduce the costs of commercial air carriers in providing air transportation services to individuals, businesses and public agencies so that the costs of such services to individuals, businesses and public agencies are stabilized and reduced. The secretary of commerce and housing is hereby authorized to make grants and provide other financial incentives in accordance with the airport services improvement program.

(b) There is hereby created in the state treasury the airport services improvement matching grant fund which shall be administered by the secretary of commerce and housing. All moneys in the airport services improvement matching grant fund shall be to provide matching grants to provide financial incentives for development and improvement of airline service from airports under the airport services improvement program in accordance with this section. All expenditures from the airport services improvement matching grant fund shall

be made on warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce and housing or the secretary's designee.

(c) The secretary of the department of commerce and housing shall establish grant eligibility criteria and shall administer the competitive selection process for the awarding of such grants. Any applicant applying for a grant shall be required to provide funding in an amount equal to the amount of the grant awarded.

(d) The secretary of commerce and housing shall adopt any rules and regulations necessary for the implementation of this section.

(e) On July 1, 2002, and on July 1 of each year and after the transfer of moneys pursuant to K.S.A. 2000 Supp. 79-4806, and amendments thereto, or as soon thereafter as sufficient moneys are available, \$2,500,000 credited to the state gaming revenues fund shall be transferred and credited to the airport services matching grant improvement fund.

Sec. 7. K.S.A. 74-8706 and K.S.A. 2000 Supp. 74-8707, 74-8723 and 79-4804 are hereby repealed.”;

By renumbering sections accordingly;

In the title, in line 23, following the semicolon, by inserting “concerning state gaming revenues; making and concerning appropriations for the fiscal year ending June 30, 2002, for the department of commerce and housing for Wichita airport assistance;”; in line 24, by striking “and 74-8723” and inserting “, 74-8723 and 79-4804”

A ruling of the chair was requested on the amendment. The chair ruled the amendment not to be germane to the bill.

Senator Hensley moved to amend **HB 2038** as amended by Senate Committee, on page 13, by striking all in lines 4 and 5 and inserting:

“Sec. 4. K.S.A. 74-8704 is hereby amended to read as follows: 74-8704. (a) The executive director shall have the power to:

(1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.

(2) Appoint, subject to the Kansas civil service act and within the limitations of appropriations therefor, all other employees of the Kansas lottery, which employees shall be in the classified service unless otherwise specifically provided by this act.

(3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the Kansas lottery, including but not limited to gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705 and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(5) Require lottery retailers to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of lottery tickets or shares.

(6) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder.

(7) Issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any lottery retailer, or to compel the appearance of any lottery retailer or employee of any lottery retailer, for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder. Subpoenas issued under the provisions of this subsection may be served upon natural persons and corporations in the manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(8) Administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition were in aid of a civil action in the district court.

(9) Require fingerprinting of employees and such other persons who work in sensitive areas within the lottery as deemed appropriate by the director. The director may submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such employees and persons and obtaining records of their criminal arrests and convictions.

(b) The Kansas lottery shall not engage in on-site display advertising or promotion of the lottery at any amateur athletic or sporting event including, but not limited to, amateur athletic sporting events at institutions under the jurisdiction and control of the state board of regents. *For the fiscal year ending June 30, 2002, and for each fiscal year thereafter, the aggregate amount expended for advertising and promotional services shall not exceed \$2,000,000.*

Sec. 5. K.S.A. 2000 Supp. 74-8711 is hereby amended to read as follows: 74-8711. (a) There is hereby established in the state treasury the lottery operating fund.

(b) The executive director shall remit at least weekly to the state treasurer all moneys collected from the sale of lottery tickets and shares and any other moneys received by or on behalf of the Kansas lottery. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit it to the lottery operating fund. Moneys credited to the fund shall be expended or transferred only as provided by this act. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person designated by the executive director.

(c) Moneys in the lottery operating fund shall be used for:

(1) The payment of expenses of the lottery, which shall include all costs incurred in the operation and administration of the Kansas lottery; all costs resulting from contracts entered into for the purchase or lease of goods and services needed for operation of the lottery, including but not limited to supplies, materials, tickets, independent studies and surveys, data transmission, advertising, printing, promotion, incentives, public relations, communications and distribution of tickets and shares; and reimbursement of costs of facilities and services provided by other state agencies;

(2) the payment of compensation to lottery retailers;

(3) transfers of moneys to the lottery prize payment fund pursuant to K.S.A. 74-8712, and amendments thereto;

(4) transfers to the state general fund pursuant to K.S.A. 74-8713, and amendments thereto;

(5) transfers to the state gaming revenues fund pursuant to subsection (d) of this section and as otherwise provided by law;

(6) transfers to the county reappraisal fund as prescribed by law;

(7) *transfers of moneys to the teacher service scholarship fund created by K.S.A. 74-32,107, and amendments thereto; and*

(8) *transfers of moneys to the ethnic minority fellowship program fund created by K.S.A. 74-32,119, and amendments thereto.*

(d) The director of accounts and reports shall transfer moneys in the lottery operating fund to the state gaming revenues fund created by K.S.A. 79-4801, and amendments thereto, on or before the 15th day of each month in an amount certified monthly by the executive director and determined as follows, whichever is greater:

(1) An amount equal to the moneys in the lottery operating fund in excess of those needed for the purposes described in subsections (c)(1) through ~~(c)(4)~~ (c)(7); or

(2) except for pull-tab lottery tickets and shares, an amount equal to not less than 30% of total monthly revenues from the sales of lottery tickets and shares less estimated returned tickets. In the case of pull-tab lottery tickets and shares, an amount equal to not less than 20% of the total monthly revenues from the sales of pull-tab lottery tickets and shares less estimated returned tickets.

New Sec. 6. Commencing on July 1, 2001, and on the first day of each month thereafter, or as soon thereafter as moneys are available therefor, the director of accounts and reports

shall transfer \$800,000 from the lottery operating fund to the teacher service scholarship fund created by K.S.A. 74-32,107, and amendments thereto.

New Sec. 7. Commencing on July 1, 2001, and on the first day of each month thereafter, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$400,000 from the lottery operating fund to the ethnic minority fellowship fund created by K.S.A. 74-32,119, and amendments thereto.

Sec. 8. K.S.A. 74-32,100 is hereby amended to read as follows: 74-32,100. This act shall be known and may be cited as the teacher *service* scholarship program.

Sec. 9. K.S.A. 74-32,101 is hereby amended to read as follows: 74-32,101. As used in this act:

(a) "Executive officer" means the *chief* executive officer of the state board of regents appointed under K.S.A. ~~74-3203~~ 2000 *Supp. 74-3203a*, and amendments thereto;

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full time in a course of instruction leading to certification ~~in a hard-to-fill teaching discipline as a teacher~~; and (3) has qualified for the award of a scholarship under the teacher *service* scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) "hard-to-fill teaching discipline" means a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education;

(d) "*underserved area*" means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education.

Sec. 10. K.S.A. 74-32,102 is hereby amended to read as follows: 74-32,102. (a) There is hereby established the teacher *service* scholarship program. A scholarship may be awarded under the teacher *service* scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. The number of new scholarships awarded under the program in each year shall not exceed 50. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of any one or more of the following: (1) High ACT or SAT score; (2) rank in high school graduation class; (3) cumulative high school or college grade point average; or (4) any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to certification ~~in a hard-to-fill teaching discipline as a teacher~~. To the extent practicable and consistent with qualification factors, consideration shall be given to students who are members of ethnic minority groups.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of a stipend ~~in the amount of \$5,000~~ (1) *an amount not to exceed 70% of the cost of attendance for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or* (2) *an amount not to exceed 70% of the average amount of the cost of attendance for an academic year at the teacher education schools maintained by the state educational institutions if the teacher education school in which the qualified student is enrolled is not a state educational institution*. A qualified student may be awarded a scholarship for not more than four academic years of undergraduate study, except that a qualified student who is enrolled full time in a course of instruction leading to certification in a ~~hard-to-fill~~ teaching discipline for which graduate study is required may be awarded a scholarship for the duration of the course of instruction.

Sec. 11. K.S.A. 74-32,103 is hereby amended to read as follows: 74-32,103. (a) An applicant for designation as a qualified student and for the award of a scholarship under the teacher *service* scholarship program shall provide to the executive officer, on forms supplied by the executive officer, information required by the executive officer.

(b) As a condition to awarding a scholarship under this act, the executive officer and the applicant shall enter into an agreement which shall require the applicant to:

(1) Complete the required course of instruction leading to certification ~~in a hard-to-fill teaching discipline as a teacher~~;

(2) engage in teaching in *Kansas in an underserved area or in a hard-to-fill teaching discipline in Kansas* and comply with such other terms and conditions as may be specified by such agreement;

(3) commence teaching on a full-time basis in ~~a hard-to-fill teaching discipline in Kansas~~ in an accredited public or private elementary or secondary school in accordance with the agreement, ~~which shall be~~ and continue teaching on a full-time basis for a period of not less than the length of the course of instruction for which the scholarship was awarded or commence teaching on a part-time basis in *Kansas in an accredited public or private elementary or secondary school in accordance with the agreement and continue teaching on such a part-time basis for a period of time that is equivalent to full time, as determined by the state board of regents, multiplied by the length of the course of instruction for which the scholarship was awarded;*

(4) commence teaching in *Kansas on a full-time or part-time basis within six months after certification and continue teaching for the period of time required by the agreement;*

~~(4)~~ (5) maintain records and make reports to the executive officer as required by the executive officer to document the satisfaction of the obligations under this act and the agreement; and

~~(5)~~ (6) upon failure to satisfy an agreement to engage in teaching in *an underserved area or in a hard-to-fill teaching discipline* for the required period of time under any such agreement, repay to the state amounts as provided in K.S.A. 74-32,104, and amendments thereto.

Sec. 12. K.S.A. 2000 Supp. 74-32,104 is hereby amended to read as follows: 74-32,104.

(a) Except as provided in K.S.A. 74-32,105, and amendments thereto, upon the failure of any person to satisfy the obligation under any agreement entered into pursuant to the teacher service scholarship program, such person shall pay to the executive officer an amount equal to the total amount of money received by such person pursuant to such agreement plus ~~annual~~ accrued interest at a rate of ~~15%~~, which is equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such person first entered into an agreement plus five percentage points. Amounts of payment under this section shall be adjusted proportionately for full years of the obligation that have been satisfied. Installment payments of any such amounts may be made in accordance with the provisions of the agreement entered into by the scholarship recipient or if no such provisions exist in such agreement, in accordance with rules and regulations of the state board of regents, except that such installment payments shall commence six months after the date of the action or circumstances that cause the failure of the person to satisfy the obligations of such agreements, as determined by the executive officer based upon the circumstances of each individual case. Amounts paid under this section to the executive officer shall be deposited in the teacher service scholarship repayment fund in accordance with K.S.A. 74-32,107, and amendments thereto.

(b) *The state board of regents is authorized to turn any repayment account arising under the teacher service scholarship program over to a designated loan servicer or collection agency, the state not being involved other than to receive payments from the loan servicer or collection agency at the interest rate prescribed under this section.*

Sec. 13. K.S.A. 74-32,105 is hereby amended to read as follows: 74-32,105. (a) Except

as otherwise specified in the agreement, an obligation under any agreement entered into under the teacher service scholarship program shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; ~~(6)~~ (6) during any period of temporary medical disability during which time the person obligated is unable because of such temporary medical disability to teach a hard-to-fill teaching discipline; or ~~(7)~~ (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a course of study leading to a degree in the field of education as a hard-to-fill teaching discipline which is higher than that formerly attained formerly by the person obligated; (8) during any period of time the person obligated is on job-protected

leave under the federal family and medical leave act of 1993; or (9) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to teach. Except for clause (2) of this subsection (a) clauses (6), (8) and (9), an obligation under any agreement entered into under as provided in the teacher service scholarship program shall not be postponed more than five years from the time the obligation was to have been commenced under any such agreement. An obligation under any agreement entered into as provided in the teacher service scholarship program shall be postponed under clause (2) of this subsection (a) (6) during the period of time the medical disability exists. Except for clause (1) or clause (2) of this subsection (a); An obligation under any agreement entered into under as provided in the teacher service scholarship program shall not be postponed unless the postponement is provided for in the agreement under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to engage in teaching in accordance with an agreement under the teacher service scholarship program shall be postponed under clause (9) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to teach, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation under any agreement entered into as provided in the teacher service scholarship program shall be satisfied: (1) If the obligation in accordance with an agreement under the scholarship program has been completed in accordance with the agreement; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; or (4) if the person obligated fails to satisfy all the requirements to enable the recipient to teach a hard-to-fill teaching discipline for a graduation from a teacher education program after making the best effort possible; (5) if the person obligated fails to satisfy all requirements for certification to teach in Kansas or has been denied certification after applying for a certificate to teach and making the best effort possible to obtain such certificate; or (6) if the person obligated is unable to obtain employment as a teacher in an underserved area or in a hard-to-fill teaching discipline after making the best effort possible to obtain such employment and the person obligated otherwise completes the terms, conditions and obligations of the agreement.

Sec. 14. K.S.A. 74-32,106 is hereby amended to read as follows: 74-32,106. The state board of regents shall adopt rules and regulations for administration of the teacher service scholarship program and shall establish terms, conditions and obligations which shall be incorporated into the provisions of any agreement entered into between the executive officer and an applicant for the award of a scholarship under the program. The terms, conditions and obligations shall be consistent with the provisions of law relating to the program and shall include, but not be limited to, the circumstances under which eligibility for financial assistance under the program may be terminated, the amount of financial assistance to be provided, the circumstances under which obligations may be discharged or forgiven, the amount of money required to be repaid because of failure to satisfy the obligations under an agreement and the method of repayment.

Sec. 15. K.S.A. 2000 Supp. 74-32,107 is hereby amended to read as follows: 74-32,107.

(a) There is hereby created in the state treasury the teacher service scholarship program fund. The executive officer shall remit all moneys received under the teacher service scholarship program, which are paid because of nonattendance or discontinuance by scholarship recipients, to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the teacher service scholarship program fund. All expenditures from the teacher service scholarship program fund shall be for scholarships awarded under the teacher service scholarship program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer or by a person designated by the executive officer.

(b) There is hereby created in the state treasury the teacher service scholarship repayment fund. The executive officer shall remit all moneys received under the teacher service scholarship program, which are for payment of amounts pursuant to K.S.A. 74-32,104, and amendments thereto, to the state treasurer at least monthly. Upon receipt of each such

remittance the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the teacher *service* scholarship repayment fund. All expenditures from the teacher *service* scholarship repayment fund shall be for scholarships awarded under the teacher *service* scholarship program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer or by a person designated by the executive officer.

Sec. 16. K.S.A. 2000 Supp. 74-32,112 is hereby amended to read as follows: 74-32,112.

(a) This act shall be known and may be cited as the Kansas ethnic minority fellowship program.

(b) The legislature hereby finds that: (1) The enrollment of certain ethnic minority students in graduate programs is low and declining; *and* (2) the ratio of graduate students who receive teaching and research assistantships is lower for ethnic minority students than for Caucasian students; ~~and (3) the ethnic origin of faculty at institutions of higher education is disproportionately Caucasian.~~

(c) The legislature hereby declares that it is the intention of this act to provide for a program under which the state in cooperation with the state educational institutions may award grants of financial assistance in the form of fellowships to qualified ethnic minority graduate students as a means of: ~~(1) recruiting and retaining ethnic minority students in the graduate programs of the state educational institutions; and (2) attracting and retaining ethnic minority faculty members and educational leaders in Kansas in order to enhance the diversity of the student population.~~

Sec. 17. K.S.A. 2000 Supp. 74-32,113 is hereby amended to read as follows: 74-32,113. As used in this act:

(a) “Kansas ethnic minority fellowship program” means a program under which grants of financial assistance in the form of fellowships are awarded to qualified ethnic minority graduate students.

(b) “Qualified ethnic minority graduate student” means a person who: (1) Is a citizen of the United States; (2) is a member of an ethnic minority group; (3) has been accepted for admission to or is enrolled full time in a graduate program at a state educational institution; and (4) has qualified for the award of a fellowship under the Kansas ethnic minority fellowship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the fellowship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the graduate program in which enrolled.

(c) “Ethnic minority group” means a group of persons categorized as: (1) American Indian; (2) Asian *or Pacific Islander*; (3) Black, non-Hispanic; or (4) Hispanic.

(d) “American Indian” means a person having origins in the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

(e) “Asian” *or “Pacific Islander”* means a person having origins in any of the original peoples of ~~Laos, Vietnam, Cambodia, or Korea~~ *the Far East, Southeast Asia, the Indian Subcontinent, or Pacific Islands, including, but not by way of limitation, persons from China, Japan, Korea, the Philippine Islands, Samoa, India, Laos, Vietnam, or Cambodia.*

(f) “Black, non-Hispanic” means a person having origins in any of the black racial groups of Africa (except those of Hispanic origin).

(g) “Hispanic” means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

(h) “State educational institution” has the meaning ascribed thereto in K.S.A. 76-711, and amendments thereto.

(i) “Executive officer” means the executive officer of the state board of regents, appointed under K.S.A. ~~74-3203~~ *2000 Supp. 74-3203a*, and amendments thereto.

Sec. 18. K.S.A. 2000 Supp. 74-32,114 is hereby amended to read as follows: 74-32,114.

(a) A fellowship may be awarded under the Kansas ethnic minority fellowship program to any qualified ethnic minority graduate student and may be renewed for each such student who remains qualified for the fellowship. Subject to appropriations therefor, the number of new fellowships awarded under the program in each year shall not exceed 40. Determination

of the graduate students qualified for such fellowships shall be made by the executive officer in consultation with the chief academic officers of the state educational institutions. The state board of regents shall establish, by rules and regulations, indicators of scholastic ability for determination of the qualifications of ethnic minority graduate students for the award of fellowships under the program.

(b) A fellowship awarded under the program shall provide for payment to a qualified ethnic minority graduate student of a stipend in ~~the an amount of \$5,000 not to exceed the amount of the cost of attendance~~ for an academic year ~~at the state educational institution in which the graduate student is enrolled~~. Such stipends may be enhanced by the state educational institutions. A qualified ethnic minority graduate student may be awarded a fellowship in each academic year until the requirements of the graduate program in which the student is enrolled are completed.

Sec. 19. K.S.A. 2000 Supp. 74-32,115 is hereby amended to read as follows: 74-32,115.

(a) An applicant for designation as a qualified ethnic minority graduate student and for the award of a fellowship under the Kansas ethnic minority fellowship program shall provide such information to the executive officer as the executive officer may require.

(b) As a condition to awarding a fellowship under this act, the executive officer and the applicant shall enter into an agreement which shall require the applicant to:

(1) Complete the requirements of the graduate program in which enrolled;

(2) enter into the ~~employ full-time employment in Kansas~~ of an accredited ~~educational elementary or secondary school or an accredited~~ institution ~~in Kansas~~ of postsecondary education and continue in such employment for a period of time not less than the period for which financial assistance was provided under the program ~~or enter into the part-time employment in Kansas of an accredited elementary or secondary school or an accredited institution of postsecondary education and continue in such employment for a period of time that is equivalent to full time, as determined by the state board of regents, multiplied by the period for which financial assistance was provided under the program;~~

(3) ~~enter into the full-time or part-time employment in Kansas of an accredited elementary or secondary school or an accredited institution of postsecondary education within six months after completion of the requirements of the graduate program in which enrolled or within six months after completion of the requirements of such program and certification to teach if necessary, whichever is later, and continue such employment for the period of time required by the agreement;~~

~~(4)~~ (4) maintain records and make reports to the executive officer as required by the executive officer to document the satisfaction of the obligations under this act and the agreement; and

~~(5)~~ (5) upon failure to satisfy any obligation under this act or the agreement, repay to the state amounts as provided in K.S.A. 2000 Supp. 74-32,116, ~~and amendments thereto~~.

Sec. 20. K.S.A. 2000 Supp. 74-32,116 is hereby amended to read as follows: 74-32,116.

(a) Except as provided in K.S.A. 2000 Supp. 74-32,117, ~~and amendments thereto~~, upon the failure of a person to satisfy any obligation under an agreement entered into ~~pursuant to in accordance with~~ the Kansas ethnic minority fellowship program, such person shall pay to the executive officer an amount equal to the total amount of money received by such person pursuant to such agreement plus ~~annual~~ accrued interest from the date such money was received at a rate ~~of 15%~~, which is equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such person first entered into an agreement plus five percentage points. Amounts of payment under this section shall be adjusted proportionately for full years of performance of the obligations that have been satisfied. Installment payments of any such amounts may be made in accordance with the provisions of the agreement entered into by the fellowship recipient or if no such provisions exist in such agreement, in accordance with rules and regulations of the state board of regents, except that such installment payments shall commence six months after the date of the action or circumstances that cause the failure of the person to satisfy the obligations of such agreements, as determined by the executive officer based upon the circumstances of each individual case. Amounts paid under this section to the executive officer shall be deposited in the Kansas ethnic minority fellowship program fund in accordance with K.S.A. 2000 Supp. 74-32,119, ~~and amendments thereto~~.

(b) *The state board of regents is authorized to turn any repayment account arising under the Kansas ethnic minority fellowship program over to a designated loan servicer or collection agency, the state not being involved other than to receive payments from the loan servicer or collection agency at the interest rate prescribed under this section.*

Sec. 21. K.S.A. 2000 Supp. 74-32,117 is hereby amended to read as follows: 74-32,117.

(a) Except as otherwise specified in the agreement, an obligation under any agreement entered into ~~under~~ *in accordance with* the Kansas ethnic minority fellowship program shall be postponed: (1) During any required period of active military service; (2) *during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; (6) during any period of temporary medical disability time in which the person obligated is unable because of such temporary medical disability to commence or continue performance in satisfaction of the obligation; or (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a graduate program leading to a degree which is higher than that formerly attained formerly by the person obligated; (8) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (9) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to commence or continue performance in satisfaction of the obligation.* Except for ~~clause (2) of this subsection (a)~~ *clauses (6), (8) and (9),* an obligation under any agreement entered into ~~under~~ *in accordance with* the Kansas ethnic minority fellowship program shall not be postponed more than five years from the time performance of the obligation was to have been commenced under any such agreement. An obligation under any agreement ~~entered into in accordance with~~ the program shall be postponed under clause ~~(2) of this subsection (a)~~ (6) during the period of time the medical disability exists. ~~Except for clause (1) or clause (2) of this subsection (a);~~ An obligation under any agreement entered into ~~under~~ *in accordance with* the program shall ~~not~~ be postponed ~~unless the postponement is provided for in the agreement under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to commence or continue performance in satisfaction of the obligation in accordance with an agreement under the Kansas ethnic minority fellowship program shall be postponed under clause (9) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to commence or continue performance in satisfaction of the obligation, and shall determine the documentation required to prove the existence of such circumstances.~~

(b) An obligation under any agreement ~~entered into in accordance with~~ the Kansas ethnic minority fellowship program shall be satisfied: (1) If performance of the obligation ~~in accordance with an agreement entered into under the program~~ has been completed *in accordance with the agreement;* (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; ~~or~~ (4) if the person obligated fails to satisfy ~~all the requirements to enable the person to enter into the employ of~~ *of the graduate program in which enrolled after making the best effort possible;* (5) if the person obligated fails to satisfy *all requirements for certification to teach in Kansas, if certification is necessary to obtain employment as provided in the agreement;* or (6) if the person obligated is unable to obtain employment in an accredited elementary or secondary school or an accredited ~~educational~~ *institution of postsecondary education* in Kansas and to continue in such employment after making the best effort possible.

Sec. 22. K.S.A. 2000 Supp. 74-32,118 is hereby amended to read as follows: 74-32,118.

(a) The state board of regents shall adopt rules and regulations for administration of the Kansas ethnic minority fellowship program and shall establish terms, conditions and obligations which shall be incorporated into the provisions of any agreement entered into between the executive officer and an applicant for the award of a fellowship under the program. The terms, conditions and obligations shall be consistent with the provisions of law relating to the program and shall include, but not be limited to, the circumstances under which

eligibility for financial assistance under the program may be terminated, the amount of financial assistance to be provided, the circumstances under which obligations may be discharged or forgiven, the amount of money required to be repaid because of failure to satisfy the obligations under an agreement and the method of repayment.

(b) *The state board of regents shall review the Kansas ethnic minority fellowship program annually to determine if the program is meeting the intention of the legislature and to make recommendations to the legislature for continuance, discontinuance, expansion, or contraction of the program.*

Sec. 23. K.S.A. 74-32,100, 74-32,101, 74-32,102, 74-32,103, 74-32,105, 74-32,106, 74-8704 and 74-8706 and K.S.A. 2000 Supp. 74-32,104, 74-32,107, 74-32,112, 74-32,113, 74-32,114, 74-32,115, 74-32,116, 74-32,117, 74-32,118, 74-8707, 74-8711 and 74-8723 are hereby repealed.”;

By renumbering sections;

In the title, by striking all in lines 23, 24 and 25 and inserting:

“AN ACT concerning the lottery; concerning the use of the revenues generated thereby; amending K.S.A. 74-32,100, 74-32,101, 74-32,102, 74-32,103, 74-32,105, 74-32,106, 74-8704 and 74-8706 and K.S.A. 2000 Supp. 74-32,104, 74-32,107, 74-32,112, 74-32,113, 74-32,114, 74-32,115, 74-32,116, 74-32,117, 74-32,118, 74-8707, 74-8711 and 74-8723 and repealing the existing sections.”

A ruling of the chair was requested on the amendment. The chair ruled the amendment not to be germane to the bill. The ruling of the chair was challenged and sustained.

PROTEST

Pursuant to Article 2, Section 10 of the Kansas Constitution, we protest the ruling of the chair and this procedural vote to sustain his ruling. Those who voted to sustain the chair have denied us and others the right to propose and discuss amendments as to how Lottery proceeds should be spent. The most egregious consequence of this ruling is to deny our constituents' right to be heard through us in the legislative process.—Anthony Hensley and Jim Barone

The committee recommended **HB 2038** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a ¾ constitutional majority, and **SB 73, SB 101, SB 127, SB 139, SB 163, SB 216, SB 252, SB 257; HB 2038** were advanced to Final Action, subject to amendment, debate and roll call.

SB 73, An act relating to vehicle registration; concerning certain farm trailers; amending K.S.A. 2000 Supp. 8-128 and 8-143 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed.

SB 101, An act concerning health insurance; relating to extension of payment of benefits; amending K.S.A. 40-2254 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed.

SB 127, An act concerning elections; relating to election procedures; amending K.S.A. 25-205, 25-302a, 25-303, 25-1122, 25-2309, 25-2316c, 25-3602, 25-4306, 25-4310 and 25-4320 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed, as amended.

SB 139, An act concerning civil procedure; relating to liability for domestic animal activities; amending K.S.A. 60-4001 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed, as amended.

SB 163, An act concerning the flag of the United States of America; relating to the use and display thereof.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed.

SB 216, An act relating to sales taxation; concerning rates authorized to be imposed by cities; amending K.S.A. 2000 Supp. 12-189 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed.

SB 252, An act relating to sales taxation; concerning participation by the department of revenue in the streamlined sales tax project.

On roll call, the vote was: Yeas 26, Nays 13, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Donovan, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Jenkins, Kerr, Lee, Morris, Oleen, Praeger, Schmidt, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Emler, Harrington, Hensley, Huelskamp, Jackson, Jordan, Lyon, O'Connor, Pugh, Salmans, Tyson.

Absent or Not Voting: Schodorf.

The bill passed.

SB 257, An act concerning unified school districts; authorizing boards of education to delegate the power to execute certain contracts to the superintendent of schools; conferring the power of local control on boards of education; amending K.S.A. 72-8201 and 72-8205 and repealing the existing sections.

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

1.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Schodorf.

The bill passed, as amended.

HB 2038, An act concerning the Kansas lottery; amending K.S.A. 74-8706 and K.S.A. 2000 Supp. 74-8705, 74-8707 and 74-8723 and repealing the existing sections.

On roll call, the vote was: Yeas 26, Nays 11, Present and Passing 2, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Brungardt, Downey, Emler, Gilstrap, Gooch, Goodwin, Harrington, Jackson, Jenkins, Jordan, Kerr, Morris, O'Connor, Oleen, Praeger, Pugh, Schmidt, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Corbin, Donovan, Feleciano, Haley, Hensley, Huelskamp, Lyon, Salmans, Tyson.

Present and Passing: Barone, Lee.

Absent or Not Voting: Schodorf.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote No on **HB 2038**.

On January 29, 1861, when our state was admitted to the Union, "Lotteries and the sale of lottery tickets are forever prohibited."

In 1974: "Notwithstanding the 1861 prohibition of lotteries . . . the state Legislature may regulate, license and tax games of "Bingo" by nonprofit organizations."

In 1986—"Notwithstanding the 1861 prohibition of lottery . . . the legislature may permit horse and dog racing and pari-mutual wagering thereon . . ."

In 1986: "Notwithstanding the 1861 prohibition of lotteries and sale of lottery tickets the Legislature may provide for a state-owned and operated lottery."

In 1987: the Attorney General issued an opinion that the state may enter into an agreement to provide a multi-state lottery. Of course, Washington, D.C., became a part of that compact so the state was allowed to enter into an agreement with non-state entities.

In 1996 the legislature allowed casinos to be run on Indian reservations. Today we are voting on whether to reauthorize the lottery.

The gradual decay of the Kansas Constitution mirrors the ethical and moral decay of the individuals that make up our society.

Today I vote "no" and hope and pray that we can restore the ideals of our forefathers.—Stan Clark

Senators Harrington and Salmans request the record to show they concur with the "Explanation of Vote" offered by Senator Clark on **HB 2038**.

MR. PRESIDENT: The lottery and games of chances always impact the poor disproportionately.

Last year, lottery ticket sales according to statistics provided by the Chair of Federal & State Affairs, the average expenditure for every man, woman and child in my County was \$65.

In *EQUITY*, if I felt that each of my constituents received even 10% back in benefits, or counseling, I could consider supporting what is otherwise a gateway to the addiction gambling and an economic shift from the poor to the rich.

Therefore, in *Equity*, Mr. President, on Valentine's Day and in concern for my state and its "honor" and its people . . . I vote "No" on HB 2038.—DAVID HALEY

MR. PRESIDENT: I vote NO on **HB 2038**. I support re-authorizing the Kansas Lottery, but only after a thorough debate of how Lottery proceeds should be spent. Our constituents expect no less, especially since there are millions and millions of dollars involved.

The ruling of the chair to not allow debate on how Lottery proceeds are spent was a heavy handed tactic to deny my right to be heard. I cannot vote for re-authorizing the Lottery under these circumstances.—ANTHONY HENSLEY

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, February 15, 2001.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

