

Journal of the Senate

THIRTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 1, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.

President Kerr introduced as guest chaplain Rev. Tyrone Gordon, Senior Pastor, St. Mark's United Methodist Church, Wichita, Kansas, who delivered the invocation:

O God, our Creator and Sustainer; we come before you this day to give you thanks and praise for life, for health, for family and for strength. We thank you for this free land that we call America and may you continue to shed your grace upon us. We thank you God for your bountiful blessings and your presence that stays with us at all times. We thank you for your truth, your righteousness and your justice so Lord help us to model you in all the decisions that we make.

Lord, remember our Governor, his cabinet, our representatives and our senators. Please God illuminate their hearts and minds with your love and your mercy. Give them good judgment and a sound mind. Be with them in debate and in discussion and we pray that the outcome will reflect your will for us. And when it is all said and done, Lord we pray that your Kingdom will come and we will reflect your will on earth as it is in heaven.

We ask this in your Name!

Amen.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 343, An act concerning the department of health and environment; relating to vital statistics; establishing the vital statistics maintenance fee fund; amending K.S.A. 2000 Supp. 65-2418 and repealing the existing section, by Committee on Ways and Means.

SB 344, An act making and concerning appropriations for the fiscal years ending June 30, 2001, June 30, 2002, and June 30, 2003, 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, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolution were referred to Committees as indicated:

Public Health and Welfare: **SCR 1609**.

Ways and Means: **SB 342**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2038**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, in line 35, by striking "2004" and inserting "2008";

On page 14, in line 37, by striking "subsection (a)" and inserting "this section"; by striking all in lines 38 and 39 and inserting:

"Sec. 5. K.S.A. 74-8702 is hereby amended to read as follows: 74-8702. As used in ~~this~~ the Kansas lottery act, unless the context otherwise requires:

- (a) "Commission" means the Kansas lottery commission.
- (b) "Executive director" means the executive director of the Kansas lottery.
- (c) "Gaming equipment" means any electric, electronic or mechanical device or other equipment unique to the Kansas lottery used directly in the operation of any lottery and in the determination of winners pursuant to this act.
- (d) "Kansas lottery" means the state agency created by this act to operate a lottery or lotteries pursuant to this act.
- (e) "Lottery retailer" means any person with whom the Kansas lottery has contracted to sell lottery tickets or shares, or both, to the public.
- (f) "Lottery" or "state lottery" means the lottery or lotteries operated pursuant to this act.
- (g) "Major procurement" means any gaming product or service, including but not limited to facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies.
- (h) "Person" means any natural person, association, corporation or partnership.
- (i) "Prize" means any prize paid directly by the Kansas lottery pursuant to its rules and regulations.
- (j) "Share" means any intangible manifestation authorized by the Kansas lottery to prove participation in a lottery game.
- (k) "Ticket" means any tangible evidence issued by the Kansas lottery to prove participation in a lottery game.
- (l) "Vendor" means any person who has entered into a major procurement contract with the Kansas lottery.
- (m) "Returned ticket" means any ticket which was transferred to a lottery retailer, which was not sold by the lottery retailer and which was returned to the Kansas lottery for refund by issuance of a credit or otherwise.
- (n) "Video lottery machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game authorized by the commission, including but not limited to bingo, poker, black jack and keno, and which uses a video display and microprocessors and in which, by chance, the player may receive free games or credits that can be redeemed for cash.
 - (o) (1) "Lottery machine" means any machine or device that allows a player to insert cash or other form of consideration and may deliver as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to:
 - (A) Any machine or device in which the prize or evidence of a prize is determined by both chance and player or players' skill, including, but not limited to, any machine or device on which a lottery game or lottery games, such as poker or blackjack, are played;
 - (B) any machine or device in which the prize or evidence of a prize is determined only by chance, including, but not limited to, any slot machine or bingo machine; or
 - (C) any lottery ticket vending machine, such as a keno ticket vending machine, pull-tab vending machine or an instant-bingo vending machine.
 - (2) "Lottery machine" shall not mean:
 - (A) Any food vending machine defined by K.S.A. 36-501, and amendments thereto;
 - (B) any nonprescription drug machine authorized under K.S.A. 65-650, and amendments thereto;

(C) any machine which dispenses only bottled or canned soft drinks, chewing gum, nuts or candies; or

(D) any machine excluded from the definition of gambling devices under subsection (d) of K.S.A. 21-4302, and amendments thereto.

Sec. 6. K.S.A. 2000 Supp. 74-8710 is hereby amended to read as follows: 74-8710. (a) The commission, upon the recommendation of the executive director, shall adopt rules and regulations governing the establishment and operation of a state lottery as necessary to carry out the purposes of this act. Temporary rules and regulations may be adopted by the commission without being subject to the provisions and requirements of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be subject to approval by the attorney general as to legality and shall be filed with the secretary of state and published in the Kansas register. Temporary and permanent rules and regulations may include but shall not be limited to:

(1) Subject to the provisions of subsection ~~(b)~~ (c), the types of lottery games to be conducted, including but not limited to instant lottery, on-line and traditional games, but not including games on video lottery machines or lottery machines.

(2) The manner of selecting the winning tickets or shares, except that, if a lottery game utilizes a drawing of winning numbers, a drawing among entries or a drawing among finalists, such drawings shall always be open to the public and shall be recorded on both video and audio tape.

(3) The manner of payment of prizes to the holders of winning tickets or shares.

(4) The frequency of the drawings or selections of winning tickets or shares.

(5) The type or types of locations at which tickets or shares may be sold.

(6) The method or methods to be used in selling tickets or shares.

(7) Additional qualifications for the selection of lottery retailers and the amount of application fees to be paid by each.

(8) The amount and method of compensation to be paid to lottery retailers, including special bonuses and incentives.

(9) Deadlines for claims for prizes by winners of each lottery game.

(10) Provisions for confidentiality of information submitted by vendors pursuant to K.S.A. 74-8705, and amendments thereto.

(11) Information required to be submitted by vendors, in addition to that required by K.S.A. 74-8705, and amendments thereto.

(12) The major procurement contracts or portions thereof to be awarded to minority business enterprises pursuant to subsection (a) of K.S.A. 74-8705, and amendments thereto, and procedures for the award thereof.

(b) No new lottery game shall commence operation after the effective date of this act unless first approved by the governor or, in the governor's absence or disability, the lieutenant governor.

(c) *The lottery shall adopt rules and regulations concerning the game of keno. Such rules and regulations shall require that the amount of time which elapses between the start of games shall not be less than four minutes.*

Sec. 7. K.S.A. 2000 Supp. 74-8718 is hereby amended to read as follows: 74-8718. (a) It is unlawful for:

(1) Any person to sell a lottery ticket or share at a price other than that fixed by rules and regulations adopted pursuant to this act;

(2) any person other than a lottery retailer authorized by the Kansas lottery to sell or resell any lottery ticket or share; or

(3) any person to sell a lottery ticket or share to any person, knowing such person to be under 18 years of age; or

(4) any person to sell a lottery ticket at retail by electronic mail, the internet or telephone.

(b) (1) Violation of this section is a class A nonperson misdemeanor upon conviction for a first offense; and

(2) violation of this section is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

Sec. 8. K.S.A. 74-8722 is hereby amended to read as follows: 74-8722. (a) The Kansas lottery shall not recruit for employment or as a volunteer any person under 18 years of age

for the purpose of appearing, being heard or being quoted in any advertising or promotion of any lottery in any electronic or print media.

(b) *The unsolicited advertisement or promotion of any lottery by the Kansas lottery through electronic mail or telephone is prohibited.*

(c) *All advertising and marketing practices of the Kansas lottery shall meet or exceed the standards of the North American association of state and provincial lotteries (NASPL) which are in effect on July 1, 2001, or any later version as adopted by the commission in rules and regulations.*

New Sec. 9. (a) The secretary of commerce and housing shall establish and implement a financial incentive program which shall be known as the airport services improvement program. The airport services improvement program shall provide grants and other financial incentive for development and improvement of airline services from existing 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 shall 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 fund which shall be administered by the secretary of commerce and housing. All expenditures from the airport services improvement fund shall be to provide financial incentives for development and improvement of airline service from existing airports under the airport services improvement program in accordance with this section. All expenditures from the airport services improvement 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) 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, \$4,000,000 credited to the state gaming revenues fund shall be transferred and credited to the airport services improvement fund.

Sec. 10. K.S.A. 79-4801 is hereby amended to read as follows: 79-4801. There is hereby created the state gaming revenues fund in the state treasury. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from the state gaming revenues fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be allocated and credited monthly to the funds and in the amounts specified by this act except that the total of the amounts credited to such funds in any one fiscal year pursuant to this act shall not exceed ~~\$50,000,000~~ \$54,000,000. All amounts credited to such fund in any one fiscal year which are in excess of ~~\$50,000,000~~ \$54,000,000 shall be transferred and credited to the state general fund ~~on July 15, 1996, and June 25, 1997, and each year thereafter~~ on June 25 of each year.

Sec. 11. K.S.A. 74-8702, 74-8706, 74-8722 and 79-4801 and K.S.A. 2000 Supp. 74-8705, 74-8707, 74-8710, 74-8718 and 74-8723 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, in line 25, by striking “74-8706” and inserting “74-8702, 74-8706, 74-8722 and 79-4801”; in line 26, by striking “and 74-8723” and inserting “74-8710, 74-8718 and 74-8723”;

And your committee on conference recommends the adoption of this report.

NANCEY HARRINGTON
 PETE BRUNGARDT
 U.L. GOOCH
Conferees on part of Senate

DOUG MAYS
 BECKY HUTCHINS
 RICK REHORN
Conferees on part of House

Senator Harrington moved the Senate adopt the Conference Committee Report on **HB 2038**.

Senator Emler offered a substitute motion to not adopt the Conference Committee Report on **HB 2038** and requested a new conference committee be appointed.

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

On roll call, the vote was: Yeas 28, Nays 11, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Emler, Haley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Nays: Barone, Donovan, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Schodorf, Steineger, Wagle.

Absent or Not Voting: Downey.

The Conference Committee report was not adopted.

The President appointed Senators Harrington, Brungardt and Gooch as a second Conference Committee on the part of the Senate on **HB 2038**.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2001**, **HB 2190**, both as amended by House Committee; and **HB 2217** be passed.

Committee on **Federal and State Affairs** recommends **SB 328** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 328," as follows:

"Substitute for SENATE BILL No. 328

By Committee on Federal and State Affairs

"AN ACT concerning beer and cereal malt beverages; enacting the keg registration act; amending K.S.A. 41-311 and 41-2708 and repealing the existing sections."; and the substitute bill be passed.

Also **HB 2036** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on Judiciary begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Attorney General:

Crime Victims Compensation Board: K.S.A. 74-7303

Paula S. Salazar, term expires March 15, 2005

Also **SB 205** be passed.

SCR 1604 be adopted.

SB 128 be amended on page 1, in line 40, by striking "No person shall" and inserting "Electioneering is"; in line 41, by striking "perform any act of electioneering on election day" and inserting "attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted. Electioneering includes wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicate support or opposition to a question submitted election"; also in line 41, after "place" by inserting "on election day";

On page 2, in line 1, by striking all after the period; by striking all in lines 2 through 7 and inserting "Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting."; in line 8, after "(b)" by inserting "As used in this section, "advance voting site" means the central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto.

(c)";

Also on page 2, in line 11, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2045**, as amended by House Committee, be passed.

REPORT ON ENROLLED BILLS

SB 216 reported correctly enrolled, properly signed and presented to the Governor on March 1, 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 Harrington in the chair.

On motion of Senator Harrington the following report was adopted:

Recommended that **SB 321**; **HB 2032** be passed.

HB 2099 be amended by motion of Senator Schmidt as amended by House Committee, on page 2, in line 11, by striking "or"; in line 16, by striking the period and inserting "; or"; after line 16, by inserting the following paragraph:

"(4) employ a check, draft or other negotiable instrument that constitutes authorization to change or add to the consumer's accounts any supplemental telecommunications services.", and **HB 2099** be passed as amended.

HB 2144 be amended by motion of Senator Schodorf as amended by House Committee, on page 1, in line 28, by striking "works from a" and inserting "operates the controls of such crane from a permanent"; also in line 28, by striking "and is not standing"; in line 29, by striking "beside the rig", and **HB 2144** be passed as amended.

SB 227 be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee, as amended by Senate Committee, on page 1, in line 32, by striking all after "Sec. 2."; by striking line 33;

And relettering the subsections accordingly;

On page 1, after construction on line 38, add "materials"

On page 2, in line 36, after "public", by inserting "notice", and **SB 227** be passed as further amended.

HB 2050 be amended by adoption of the committee amendments, and be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 227**, **SB 321**; **HB 2032**, **HB 2099**, **HB 2144** were advanced to Final Action and roll call.

SB 227. An act concerning state purchasing; providing a mechanism for the submittal of on-line bids; amending K.S.A. 2000 Supp. 10-106 and repealing the existing section.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 1, Absent or Not Voting 1.

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

Nays: Barone, Gilstrap, Haley, Hensley.

Present and Passing: Feleciano.

Absent or Not Voting: Downey.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: **SB 227** represents a great idea, on line bidding for Government procurements, but a bad bill. I believe that as our very first effort we go way too far with **SB 227**, in fact we go all the way with permitting every government purchase to be bid on line, the smallest to the largest. I believe we should walk before we run.—JIM BARONE

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.

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, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle. Absent or Not Voting: Downey.

The bill passed.

HB 2032. An act concerning professional malpractice liability screening panels; relating to providing copies of opinions to the insurance commissioner; amending K.S.A. 2000 Supp. 60-3505 and 65-4904 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, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle. Absent or Not Voting: Downey.

The bill passed.

HB 2099. An act concerning telecommunications; amending K.S.A. 2000 Supp. 50-6,103 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, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle. Absent or Not Voting: Downey.

The bill passed, as amended.

HB 2144. An act relating to vehicle registration; exempting truck mounted concrete pump with boom; amending K.S.A. 2000 Supp. 8-128 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, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle. Absent or Not Voting: Downey.

The bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Friday, March 2, 2001.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

