

Journal of the Senate

FORTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 6, 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. Joe Griffio, Pastor, Topeka Reformed Presbyterian Church, Topeka, Kansas, who delivered the invocation:

Father, we give you thanks and praise for your tender mercies, for they are new each day. We pray for guidance, wisdom, and discernment for these men and women who have been called to serve in this legislative body. They have been given a high calling with a tremendous amount of responsibility; decisions made here will effect the lives of thousands of Kansans for years to come.

Grant this group of men and women servants' hearts, taking their lead from the great servant, Jesus Christ—he who came to serve, rather than be served, who knelt down and washed the feet of His disciples, who called the little children to Himself, who said, "Come unto Me. . .", who gave His life to save His people from their sins.

Lord, all of us, whether we are aware of it or not, are in need of your grace, blessing, and mercy, so I pray for these things in great abundance for these precious servants, for You are our judge, law-giver, and King!

In Jesus name, Amen.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 345, An act relating to the taxation of cigarettes; increasing the rate thereof; providing for disposition of revenues; establishing the community health programs grant fund; amending K.S.A. 79-3310, 79-3311 and 79-3378 and repealing the existing sections, by Committee on Ways and Means.

SB 346, An act concerning the department of insurance; relating to salaries; amending K.S.A. 40-110 and repealing the existing section, by Committee on Ways and Means.

SB 347, An act concerning the office of attorney general; relating to salaries; amending K.S.A. 75-3111 and repealing the existing section, by Committee on Ways and Means.

SB 348, An act making and concerning appropriations for the fiscal years ending 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; amending K.S.A. 2000 Supp. 79-2959, 79-2964, 79-3425i and 79-34,147 and repealing the existing sections, by Committee on Ways and Means.

SB 349, An act concerning the legislature; relating to benefits and compensation of employees of certain legislative agencies; amending K.S.A. 2000 Supp. 74-4911f and repealing the existing section, by Committee on Ways and Means.

SB 350, An act concerning electronic transactions; establishing the electronic transactions registration fee fund, by Committee on Ways and Means.

SB 351, An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; affiliation and membership in Kansas police and firemen's retirement system; election; employee and employer contributions, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Assessment and Taxation: **HB 2221**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

March 2, 2001

Janet Schalansky, Secretary, Department of Social and Rehabilitation Services, provided to the Kansas Legislature at the request of the Joint Committee on SRS Transition Oversight, a report detailing the employment programs funded by TANF across the state.

DEPARTMENT OF ADMINISTRATION Division of Accounts and Reports

March 5, 2001

Dale Brunton, Director, Division of Accounts and Reports, submitted a copy of the State of Kansas *Annual Financial Report* for fiscal year ending June 30, 2000.

DEPARTMENT OF ADMINISTRATION Division of Accounts and Reports

March 5, 2001

Dale Brunton, Director, Division of Accounts and Reports, submitted a copy of the State of Kansas *Monthly Financial Perspective* for the month of December 2000.

Enhanced monthly financial information is available on the internet under *Monthly Financial Perspective*. There is also a web-site available.

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, the House concurs in Senate amendments to **HB 2144**.

The House nonconcurs in Senate amendments to **HB 2099**, requests a conference and has appointed Representatives Holmes, Sloan and McClure as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **HB 2099**.

The President appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

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.*

Sec. 9. K.S.A. 74-8702, 74-8706 and 74-8722 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 and 74-8722"; 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.

DOUG MAYS
BECKY HUTCHINS
Conferees on part of Senate

NANCEY HARRINGTON
PETE BRUNGARDT
Conferees on part of House

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

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Brownlee, Clark, Donovan, Gooch, Haley, Huelskamp, Lyon, Salmans, Tyson.

The Conference Committee report was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 334** be amended on page 3, in line 1, before "misdemeanor" by inserting "class A, nonperson"; also in line 1, by striking all after "misdemeanor"; by striking all in line 2; in line 3, by striking all before the period; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 177**, as amended by Senate Committee, be passed.

Also **SB 129** be amended on page 2, in line 34, after "rangeland" by inserting "as derived by collection of data from landlords"; also, in line 34, after "region" by inserting "and the stocking rate for such region";

On page 3, in line 14, before the comma by inserting "and subject to the review and approval of the land devoted to agricultural use influence factor approval board"; in line 15, by striking "adverse"; after 16, by inserting the following:

"There is hereby established a land devoted to agricultural use influence factor approval board. Such board shall be composed of four members as follows: Three members shall be county or district appraisers appointed by the Kansas association of county appraisers of whom one shall be appointed from the counties comprising crop reporting districts one through three, one shall be appointed from the counties comprising crop reporting districts four through six and one shall be appointed from the counties comprising crop reporting districts seven through nine, and one member shall be the designee of the state director of property valuation. Such board shall, upon notification by a county or district appraiser of a proposed influence factor change in the valuation of land devoted to agricultural use, review and approve or disapprove any such change. Any such decision shall not affect the ability of a taxpayer to prosecute a valuation appeal as provided by law. Crop reporting districts shall be as enumerated by K.S.A. 2-3008, and amendments thereto.";

On page 4, in line 1, after the period by inserting "The term "land class" or "land classes" shall be deemed to refer to the agricultural use classification of land, including but not limited to, cultivated dry land, cultivated irrigated, wetlands, native pasture and rangeland, and tame pasture and rangeland. The term "homogeneous region" shall mean a contiguous area of land which shares the same topography, soil composites, climatic and rainfall conditions, and land class, and which may include all or a part of one or more counties."; and the bill be passed as amended.

SB 231 be amended on page 1, in line 39, by striking "contributed" and inserting "designated for contribution";

On page 2, in line 9, by striking all after “for”; in line 10, by striking all before the period and inserting “the purposes enumerated by section 4”; in line 29, by striking “literacy” and inserting “education”; in line 30, by striking “literacy” and inserting “education”;

On page 3, in line 7, by striking “literacy” and inserting “education”; in line 18, by striking “financial institution” and inserting “community-based organization”; in line 29, by striking “on a not-for-profit basis”;

On page 4, in line 4, after “moneys” by inserting “upon approval of a community-based organization”;

On page 5, in line 9, by striking “\$4,000,000” and inserting “\$500,000”;
and the bill be passed as amended.

SB 332 be amended on page 1, in line 14, before the period by inserting “for assistive technology”;

On page 2, in line 1, after the period by inserting “Such fund may include federal grant moneys.”; in line 8, by striking all after “entity”; in line 9, by striking all before “who”; in line 35, by striking “literacy” and inserting “education”;

On page 3, in line 12, by striking “literacy” and inserting “education”; after line 18, by inserting a new subsection to read as follows:

“(h) No provision of this act shall be deemed to require the department to be obligated to provide matching funds or to incur any expense in the administration of an individual development account reserve fund.”; in line 20, by striking “400%” and inserting “300%”; in line 23, by striking “financial institution” and inserting “community-based organization”; in line 26, by striking “on a not-for-profit basis”;

On page 4, in line 1, after “moneys” by inserting “upon approval of a community-based organization”; in line 29, by striking “Direct appropriate” and insert “Appropriate”; also, in line 29, after “agencies” by inserting “are hereby directed”;

On page 5, in line 6, by striking “\$4,000,000” and inserting “\$500,000”;

In the title, in line 9, before “and” by inserting “for assistive technology”; in line 10, before “individual” by inserting “an”; also, in line 10, before the period by inserting “therefore”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 146** be passed.

Also **HB 2301** 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 **Education** recommends **SB 134**, **SB 313** be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2147**; **HB 2148**, as amended by House Committee, be passed.

Also **HB 2149** be amended on page 2, in line 13, after “agreement” by inserting a comma, and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 14** be amended on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 2000 Supp. 5-501 is hereby amended to read as follows: 5-501. (a) K.S.A. 2000 Supp. 5-501 through 5-516, and amendments thereto, shall be known and may be cited as the dispute resolution act.

(b) The dispute resolution act shall apply to registered and approved programs and individuals, and personnel thereof, to parties to dispute resolution being conducted by registered programs and individuals, and to disputes referred by a court, *by state government or as otherwise provided by statute* to dispute resolution other than litigation. The dispute resolution act shall not apply to any judge acting in an official capacity.”;

And by renumbering sections accordingly;

Also on page 1, in line 16, by striking all after “(a)”; by striking all in lines 17 through 37 and inserting: “Upon finding that alternatives to litigation may provide a more appropriate means to resolve the issues in a case and that the costs of the dispute resolution process are commensurate with the amount at controversy in the case and the parties’ ability to pay such costs, a judge may order the parties to the case to participate in a judicial settlement conference or a non-binding dispute resolution process conducted by an approved program or individual.”; in line 38, by striking all after “(b)”; in line 39, by striking all before “If”;

On page 2, by striking all in lines 3 through 10;

And by renumbering sections accordingly;

Also on page 2, in line 17, by striking "to a dispute" and inserting "which are directly related to the mediation"; in line 26, after "resources" by inserting "or the secretary's designee"; in line 29, before "prescribe" by inserting "be authorized to charge fees to the parties for mediation, conflict resolution services or training programs contracted for to be provided by the agency and shall"; also in line 29, by striking "cost" and inserting "costs"; in line 30, by striking "borne" and inserting "allocated"; also in line 30, after "secretary" by inserting "or the secretary's designee";

On page 3, in line 16, after "Supp." by inserting "5-501 and"; also in line 16, by striking "and 5-516";

On page 1, in the title, in line 11, after "Supp." by inserting "5-501 and"; also in line 11, by striking "and 5-516"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 305** be passed.

Also **HB 2457**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2210 be amended on page 1, in line 18, by striking all after "nurses"; in line 19, by striking all before "or";

On page 2, in line 17, by striking all after "nurses"; in line 18, by striking all before "or"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 96**, **SB 170**, **SB 294**, **SB 309** be passed.

Also **SB 8** be amended on page 2, in line 3, by striking "precedent of the current fiscal year"; in line 4, before the period, by inserting: "preceding the fiscal year for which the appropriation for the operating grant is made"; in line 13, by striking "and" and inserting a comma; also in line 13, after "72-6503a" by inserting "and 72-6505";

In the title, in line 12, after "72-6503a" by inserting "and 72-6505"; and the bill be passed as amended.

SB 118, as amended by Senate Committee, be amended on page 1, in line 39, after the stricken material by inserting: "Any expenditure of money appropriated by the legislature for this purpose shall be matched by the local communities either by money or in-kind services, in an amount as specified by appropriation act of the legislature."; and the bill be passed as amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, March 7, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

