

Journal of the Senate

THIRTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 7, 2017, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 39 senators present.

Senator Hensley was excused.

President Wagle introduced guest chaplain, Reverend Charlie Smith, First Presbyterian Church, Salina, to deliver the invocation:

Lord of our life and God of our salvation, we ask Your blessing on all that is best about us, and Your forgiveness for anything that has fallen short of the greatness of the past, the hopes of the present, and the call to higher things in the future.

Lord, You are our governor, and Your glory shines throughout the world. We commend our State to Your merciful care, that we may live securely in peace and may be guided by Your providence.

Guide those who direct the affairs of this State. Sustain them in their work, support them in their anxieties, and strengthen them in their resolve to seek and pursue the well-being of all the people. Give them joy in their service, due pride in their successes and the approval of a good conscience in all their endeavors. Give them the wisdom and strength to know Your will and to do it. Help them to remember that they are called to serve the people as lovers of truth and justice. Bless them, that they may do their work in the spirit of kindness. And help them to use their authority to serve faithfully, and to promote the general welfare.

And so work among us, by Your good and kindly Spirit, that this State may be renewed in beauty and order, in happiness and peace. Amen

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 218, AN ACT concerning adult care homes; relating to licensure; employment; background checks; amending K.S.A. 2016 Supp. 39-970 and repealing the existing section, by Committee on Federal and State Affairs.

SB 219, AN ACT concerning the Kansas department for aging and disability services; relating to security police officers; training requirements; amending K.S.A. 2016 Supp. 76-12a17 and repealing the existing section, by Committee on Federal and State Affairs.

SB 220, AN ACT concerning the Kansas department for aging and disability services; relating to Larned state hospital and Osawatomie state hospital; catchment

areas; amending K.S.A. 2016 Supp. 39-1602 and repealing the existing section, by Committee on Federal and State Affairs.

SB 221, AN ACT concerning children and minors; relating to the revised Kansas code for care of children; newborn infant protection act; powers and duties of the secretary for children and families; amending K.S.A. 39-713c and K.S.A. 2016 Supp. 38-2202, 38-2254, 38-2255, 38-2268, 38-2269, 38-2282 and 39-708c and repealing the existing sections, by Committee on Federal and State Affairs.

SB 222, AN ACT concerning economic development; relating to the promoting employment across Kansas act, one-year moratorium; amending K.S.A. 2016 Supp. 74-50,212 and 74-50,213 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 223, AN ACT concerning economic development; relating to the promoting employment across Kansas act, business eligibility requirements, certain benefit qualification provision sunsets; amending K.S.A. 2016 Supp. 74-50,212 and 74-50,213 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 224, AN ACT concerning motor fuels tax; relating to rates and trip permits; amending K.S.A. 2016 Supp. 79-3492b, 79-34,118 and 79-34,141 and repealing the existing sections, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **HB 2329**.

Ethics, Elections and Local Government: **HB 2256**.

Financial Institutions and Insurance: **HB 2118**.

Judiciary: **SB 216; HB 2240, HB 2262**.

Public Health and Welfare: **SB 217; HB 2107, HB 2205, HB 2217, HB 2219, HB 2304**.

Transportation: **HB 2174, Sub HB 2257**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Longbine introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1717—

A RESOLUTION recognizing the Kansas Lottery and the tremendous success it has demonstrated for the citizens of Kansas these past 30 years.

WHEREAS, On November 11, 1986, 64% of Kansas voters said "YES" to establishing a lottery in Kansas; and

WHEREAS, The 1987 Kansas Legislature and Governor Mike Hayden enacted the Kansas Lottery Act; and

WHEREAS, On November 12, 1987, the Kansas Lottery sold the first ticket of its first instant game, Up and Away; and

WHEREAS, The mission of the Kansas Lottery is to produce the maximum amount of revenue possible for the State of Kansas while ensuring the integrity of all games; and

WHEREAS, The Kansas Lottery's purpose is to provide fun and exciting

entertainment that allows players to dream about what they would do if they won; and

WHEREAS, The Kansas Lottery provides support for the State of Kansas by generating revenue for economic development, veterans' programs, prison construction, juvenile detention facility construction and the state general fund; and

WHEREAS, The Kansas Lottery has generated more than \$5.4 billion in total sales during the last 30 years, including more than \$1.6 billion transferred to the State. Kansas Lottery players have won \$3 billion in prizes, while Kansas Lottery retailers have earned \$309 million in commissions and bonuses; and

WHEREAS, Much of the Kansas Lottery's success can be attributed to new and innovative ideas, including interactive instant games, lottery best practices, such as higher-price-point tickets, enhanced dispensers, a players' loyalty program and research-based strategies, as well as promotional partnerships, such as with the Kansas Speedway, Country Stampede and the Kansas State Fair; and

WHEREAS, The Kansas Expanded Lottery Act was enacted in 2007, which authorizes the Kansas Lottery to own and operate casino gaming in four "gaming zones." Total revenue to the State from expanded gaming has exceeded \$420 million, which is to be used for purposes designated by the Kansas Legislature, including the reduction of state debt: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the Kansas Lottery and the tremendous success it has demonstrated for the citizens of Kansas these past 30 years; and

Be it further resolved: That we encourage the Kansas Lottery to continue seeking new and innovative ways to increase its sales in a responsible way that will continue to benefit the State of Kansas; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Longbine.

On emergency motion of Senator Longbine **SR 1717** was adopted unanimously.

Kansas Lottery guests were honored by the senate with a standing ovation.

Senator V. Schmidt introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1718—

A RESOLUTION recognizing the Boys & Girls Clubs across Kansas
for the outstanding services they provide for young people and their families.

WHEREAS, Boys & Girls Clubs across Kansas make valuable contributions to the young people of Kansas; and

WHEREAS, Boys & Girls Clubs provide programs and services to inspire all young people, especially those from disadvantaged backgrounds, to realize their full potential as productive, responsible and caring citizens; and

WHEREAS, Through strong, proven development programs, leaders in the Boys & Girls Clubs stress character and leadership development, education and career advancement, and health and life skills; and

WHEREAS, The programs promote better self-image, improve education, and increase social, emotional and cultural awareness, while encouraging community involvement, strong moral values and life management skills; and

WHEREAS, Boys & Girls Clubs promote an appreciation for the arts and provide programs in sports, fitness and recreation; and

WHEREAS, The 2017 Youth of the Year contestants are as follows: Ivy Auletti, Boys & Girls Club of Manhattan; Zion Bowlin, Boys & Girls Club of Lawrence; Christopher Burrell, Boys & Girls Club of South Central Kansas; Mikayla Keeling, Boys & Girls Club of Topeka; Hannah Lamson, McConnell Air Force Base Youth Program; Evelyn Leyva, Boys & Girls Club of Hutchinson; Celeste Nicole Marchbanks, Fort Leavenworth Youth Services; and Juleonna Breann Stevenson, Boys & Girls Club of Coffeyville; and

WHEREAS, On March 6, 2017, Youth of the Year nominees from Kansas were chosen as the State and the Military Youth of the Year to represent the State of Kansas in the Boys & Girls Clubs of America's Regional Youth of the Year contest; and

WHEREAS, The Boys & Girls Clubs across Kansas have named March 7, 2017, as their annual "Day at the Capitol"; and

WHEREAS, Through the years, Boys & Girls Clubs have encouraged young people to aspire to the highest level of personal development, and to become good citizens who are involved in their communities: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the Boys & Girls Clubs across Kansas for the outstanding services they provide for young people and their families; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Schmidt.

On emergency motion of Senator V. Schmidt **SR 1718** was adopted unanimously.

Guests were honored by the senate with a standing ovation.

COMMITTEE OF THE WHOLE

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

On motion of Senator Petersen the following report was adopted:

SB 175 be amended by the adoption of the committee amendments, be further amended by motion of Senator Francisco: on page 21, in line 38, after "be" by inserting ": (1)"; in line 41, after "F" by inserting "; or (2) subtracted from federal adjusted gross income passive losses incurred from activities deriving rents and royalties as reported on the taxpayer's form 1040 federal individual income tax return schedule C, E or F"; the amendment was adopted

Citing Rule 27, Senator Suellentrop moved to divide the question into five parts.

Part 1 containing the provisions of the bill which relate to the taxation of passive income from rents and royalties contained in section 11 of the bill was rejected.

Part 2 containing the provisions of the bill which relate to income tax rates contained in section 10 of the bill was rejected.

Part 3 containing the provisions of the bill which relate to the increase in liquor enforcement tax contained in section 21 of the bill was rejected.

Citing Rule 50 Senator Pyle moved to strike the enacting clause on **SB 175**. A roll call vote was required.

The motion carried.

On roll call, the vote was: Yeas 37; Nays 1; Present and Passing 1; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Givens, Goddard, Haley, Hardy, Hawk, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Francisco.

Present and Passing: Olson.

Absent or Not Voting: Hensley.

The bill was lost.

EXPLANATION OF VOTE

Madam President: Although I did not support **SB 175**, I do support a significant increase in taxes on cigarettes and other tobacco products. Tobacco use is the number one preventable cause of death. The side-effects caused by tobacco products significantly drive up medical costs, which drives up the base cost of insurance premiums. This affects all Kansans. The annual health care costs in Kansas directly caused by smoking are \$1.12 billion, and this is coupled with \$1.09 billion in smoking-caused productivity losses. Reducing the use of cigarettes will definitively cut the cost of Medicaid. At the appropriate time, I will vote for a tax plan that contains both a structural balance to our budget AND improves health outcomes with a substantial increase in cigarette and tobacco taxes.—BARBARA BOLLIER

Senators Hardy and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Bollier on **SB 175**.

Madam President: I vote "NO" on the motion to eliminate the enacting clause from **SB 175**, a bill that included a number of provisions to raise revenue. The motion was made when the Senate was in the midst of a discussion on the taxation of cigarettes and tobacco products. A Senator had indicated that if those provisions passed, the Senator would be offering an amendment to use the revenue gained from those measures to reduce sales tax on food – a proposal I would support. We would have continued with a vote on the fifth part of the division which would give us the opportunity to eliminate the proposed changes in annual reporting fees. I vote NO because I believe we need to establish a Senate position on taxation. Those of us who have objections to the proposals in the bill should be offering amendments and continuing the discussion to establish a plan to generate revenue we need to balance the budget.—MARCI FRANCISCO

Madam President: The clock is ticking. We are at Day 48 of our legislative session, the halfway point no less, and are no closer to addressing our \$800 million structural deficit, let alone the additional hundreds of millions in yet more revenue we will need to properly fund K-12 education. I urge the body to quickly craft and support a revenue package that truly repeals Governor Brownback's 2012 tax debacle and restores Kansas to a more solid financial footing.—TOM HOLLAND

Senator Pettey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Holland on **SB 175**.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends

SB 130 be amended on page 1, in line 17, by striking "January" and inserting "July"; in line 20, by striking "\$.20" and inserting "\$.05"; in line 28, by striking all after "liquid"; in line 29, by striking all after "solution"; in line 30, by striking all before "that" and inserting "or other material"; and the bill be passed as amended.

Also, **SB 116** 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 **Public Health and Welfare** recommends **SB 95** be amended by substituting a new bill as recommended by the Senate Committee on Public Health and Welfare as reported in the Journal of the Senate on February 21, 2017, and the substitute bill be amended by substituting a new bill to be designated as "Substitute for Substitute for SENATE BILL NO. 95," as follows:

"Substitute for Substitute for SENATE BILL NO. 95

By Committee on Public Health and Welfare

"AN ACT authorizing telephonic signatures for public assistance applications; relating to powers, duties and functions of the Kansas department for children and families.";

And the substitute bill be passed.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Wednesday, March 8, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

