

Journal of the Senate

SEVENTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 18, 2017, 10:00 a.m.

The Senate was called to order by Vice President Jeff Longbine.
The roll was called with 39 senators present.
Senator Bowers was excused.
Invocation by Reverend Cecil T. Washington:

Lord God of Heaven and earth, there's much work yet to be done in these chambers. I pray that You provide the servants here with all they need to make wise decisions. Let the prayer of Jabez be ours. In 1 Chronicles 4:10, it says Jabez prayed to You, saying "Please bless me and expand my territory." He asked for Your power to be with him and to free him from evil. And, Lord, You gave him what he asked for. I pray today that You do for us what You did for Jabez. In Jesus' Name, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

POINT OF PERSONAL PRIVILEGE

Senator Faust-Goudeau rose on a Point of Personal Privilege to recognize members of the World Mission Society Church of God. Introduced were Kwang Su Park, Hongyeal Lee, Michael Musni, Levi Cramer and Ruby Marron.

The Senate honored the guests with a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 251, AN ACT concerning education; relating to the instruction and financing thereof; making and concerning appropriations for the fiscal years ending June 30, 2018, and June 30, 2019, for the department of education; creating the Kansas school equity and enhancement act; amending K.S.A. 12-17,115 and 72-8803 and K.S.A. 2016 Supp. 10-1116a, 12-1677, 12-1770a, 12-1775a, 12-1776a, 72-978, 72-1046b, 72-1398, 72-1414, 72-1923, 72-3712, 72-3715, 72-5333b, 72-64b01, 72-64c03, 72-64c05, 72-6622, 72-6624, 72-6625, 72-6757, 72-67,115, 72-7535, 72-8187, 72-8190, 72-8230, 72-8233, 72-8236, 72-8249, 72-8250, 72-8251, 72-8302, 72-8309, 72-8316, 72-8415b, 72-8801, 72-8804, 72-8908, 72-9509, 72-9609, 72-99a02, 72-99a02, as amended by section 92 of this act, 72-99a04, 74-4939a, 74-8925, 74-99b43, 75-2319, 79-201x, 79-213, 79-2001 and 79-2925b and repealing the existing sections; also repealing K.S.A. 2016 Supp. 46-1133, 72-6482 and 75-2319, as amended by section 46 of Senate Substitute for Substitute for House Bill No. 2052, by Committee on Ways and Means.

SB 252, AN ACT concerning rural economic development; enacting the ad astra rural jobs act, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Under the authority of the President, Vice President Longbine referred **SB 251** to the **Senate Select Committee on Education Finance**.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Susan Wagle in the chair.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **H Sub SB 60**.

ORIGINAL MOTION

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 23**; **HB 2313**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 23** submits the following report:

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

On page 2, in line 16, before "To" by inserting "(a)"; in line 20, after the first comma by inserting "and the funding therefor"; following line 21, by inserting:

"(b) Any state agency may enter into agreements with the attorney general to carry out provisions of this section and section 1, and amendments thereto.";

Also on page 2, by striking all in line 43;

On page 3, by striking all in lines 1 through 3;

On page 15, in line 26, by striking all after "(b)"; by striking all in line 27; in line 28, by striking all before "Upon" and inserting "(1) The insurance commissioner shall appoint a person as securities commissioner no later than September 1, 2017, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, to serve an initial term ending on January 14, 2019."; following line 41, by inserting:

"(2) The securities commissioner shall devote full time to the performance of the duties of the office of the securities commissioner.";

And by renumbering sections accordingly;

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

BLAINE FINCH

FRED PATTON

JOHN CARMICHAEL

Conferees on part of House

JEFF LONGBINE
 RICK BILLINGER
 LYNN ROGERS

Conferees on part of Senate

Senator Longbine moved the Senate adopt the Conference Committee Report on **SB 23**.

On roll call, the vote was: Yeas 30; Nays 8; Present and Passing 0; Absent or Not Voting 2.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Denning, Doll, Estes, Fitzgerald, Givens, Goddard, Hardy, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Hilderbrand, Kelly, Rogers.
 Absent or Not Voting: Bowers, Wilborn.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

Madam President: **SB 23** is a better bill than Senate action alone. The reason we are doing this is because of past poor performance of our last two Securities Commissioners. I like the concept of making the Securities Commissioner work full time for their state duties/pay and moving attorneys to the Attorney General's office. I also like the public policy statement that the Attorney General's office has the prosecution authority for the state instead of spread throughout state agencies. I could support this bill if all duties were moved to the Attorney General's office. But we should have taken more care in appointing competent Securities Commissioners.—LYNN ROGERS

Senators Faust-Goudeau, Francisco, Haley, Hawk and Hensley request the record to show they concur with the "Explanation of Vote" offered by Senator Rogers on **SB 23**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2313 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 amendments, as follows:

On page 4, following line 28, by inserting:

"No more than two lottery ticket vending machines may be located at each Kansas lottery retailer selling location.";

On page 9, in line 5, by striking all after "(k)"; by striking all in line 6; in line 7, by striking all before the period and inserting "'Facility owner licensee" shall have the same meaning as that term is defined in K.S.A. 74-8802, and amendments thereto.

(l) "Racetrack gaming facility manager" shall have the same meaning as that term is defined in K.S.A. 74-8702, and amendments thereto.

(m) "Lottery gaming facility manager" shall have the same meaning as that term is defined in K.S.A. 74-8702, and amendments thereto.

(n) "Prize" shall have the same meaning as that term is defined in K.S.A. 74-8702,

and amendments thereto, and any winnings from parimutuel wagering as provided by the Kansas parimutuel racing act, K.S.A. 74-8801 et seq., and amendments thereto";

Also on page 9, by striking all in lines 8 through 35; in line 40, by striking all after "director"; in line 41, by striking all before "may";

On page 10, in line 1, by striking all after "or"; in line 2, by striking "vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 10, by striking all after "a"; in line 11, by striking "vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 14, by striking all before "with" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 16, by striking "third party vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 18, after "debts" by inserting "by a lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 29, by striking "third party vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 31, by striking "third party vendor, as agent of the state," and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 35, by striking "third party"; in line 36, by striking "vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 38, by striking "third party vendor is acting strictly as agent for the state and" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 41, by striking "third party vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee"; in line 42, by striking "third party vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee";

On page 11, in line 3, by striking "third party vendor" and inserting "lottery gaming facility manager, racetrack gaming facility manager or facility owner licensee";

On page 12, in line 6, after "(5)" by inserting "transfers to the community crisis stabilization centers fund and clubhouse model program fund of the Kansas department for aging and disability services pursuant to subsection (e);

(6) ";

Also on page 12, in line 7, after the stricken material by inserting "and"; in line 8, by striking the semicolon; by striking all in lines 9 through 11; in line 12, by striking all before the period; in line 20, by striking "(4)" and inserting "(5)"; in line 27, by striking all after the first comma; by striking all in lines 28 through 43;

On page 13, in line 1, by striking all before the period and inserting "during fiscal year 2018 through fiscal year 2022, on or before the 10th day of each month, the director of the lottery shall certify to the director of accounts and reports all net profits from the sale of lottery tickets and shares via lottery ticket vending machines. Of such certified amount, the director of accounts and reports shall transfer 75% from the lottery operating fund to the community crisis stabilization centers fund of the Kansas department for aging and disability services and 25% from the lottery operating fund to the clubhouse model program fund of the Kansas department for aging and disability services";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 13, following line 27, by inserting:

"Sec. 8. K.S.A. 2016 Supp. 75-5173 is hereby amended to read as follows: 75-5173. As used in this act:

- (a) "Act" means the Kansas charitable gaming act.
 - (b) "Administrator" means the administrator of charitable gaming designated by the secretary pursuant to K.S.A. 2016 Supp. 75-5186, and amendments thereto.
 - (c) "Bingo" or "games of bingo" means the games of call bingo and instant bingo.
 - (d) "Bingo face" or "face" means a piece of paper which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by a number, letter or combination of numbers and letters. Only the center square shall be designated with the word "free." No two bingo faces in the same game shall be identical. Faces shall be disposable and shall not be reused after the game in which a player has used such face.
 - (e) "Call bingo" means a game in which: (1) Each player pays a charge; (2) a prize or prizes are awarded to the winner or winners; (3) each player receives one or more cards or faces; and (4) each player covers the squares on each card or face as the operator of such game announces a number, letter or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically from a receptacle in which have been placed objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first covering properly a predetermined and announced pattern of squares upon the card or face being used by such player or players.
- "Call bingo" shall include any regular, special, mini and progressive game of bingo.
- (f) "Charitable gaming" means bingo, including call bingo, and instant bingo and charitable raffles.
 - (g) "Charitable raffle" means a raffle conducted by a nonprofit religious, charitable, fraternal, educational or veterans' organization.
 - (h) "Department" means the department of revenue.
 - (i) "Director" means the director of taxation.
 - (j) "Distributor" means any person or entity that sells or distributes instant bingo tickets, bingo cards or bingo faces.
 - (k) "Electronic gaming device" means a device that, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value.
 - (l) "Instant bingo" means a game: (1) In which each player pays a charge; (2) in which a prize or prizes are awarded to the winner or winners; (3) in which each player receives one or more disposable pull-tab or break-open tickets which accord a player an opportunity to win something of value by opening or detaching the paper covering from the back of the ticket to reveal a set of numbers, letters, symbols or configurations, or any combination thereof; (4) which is conducted by a licensee under this act; (5) ~~the conduct of which must be in the presence of the players which may be dispensed by an instant bingo vending machine;~~ and (6) which does not utilize any dice, normal playing cards, instant ticket with a removable latex covering or slot machines.

Winners of instant bingo shall be determined either: (1) By a combination of letters, numbers or symbols determined and posted prior to the sale of instant bingo tickets; (2) by matching a letter, number or symbol under a tab of an instant bingo ticket with the

winning letter, number or symbol in a designated call game of bingo during the same session; or (3) by matching a letter, number or symbol under a tab of an instant bingo ticket with one or more letters, numbers or symbols announced in, or as a continuation of, a designated call game of bingo during the same session.

"Instant bingo"—~~shall not~~ may include any bingo game utilizing electronically generated or computer-generated tickets from an instant bingo vending machine.

(m) (1) "Instant bingo vending machine" means a machine or electronic device owned or leased by a licensee, with no more than two such machines located at each licensee's premises where bingo is conducted, the purposes of which are to:

(A) Dispense a printed instant bingo ticket after the purchaser inserts cash or other form of consideration into the machine; and

(B) allow purchasers to manually check the winning status of the instant bingo ticket.

(2) "Instant bingo vending machine" shall not:

(A) Provide a visual or audio representation of an electronic gaming machine;

(B) visually or functionally have the same characteristics of an electronic gaming machine;

(C) automatically determine or display the winning status of any dispensed instant bingo ticket;

(D) extend or arrange credit for the purchase of an instant bingo ticket;

(E) dispense any winnings;

(F) dispense any prize;

(G) dispense any evidence of a prize other than the instant bingo ticket;

(H) provide free instant bingo tickets or any other item that can be redeemed for cash; or

(I) dispense any other form of a prize to a purchaser.

(n) "Lessor" means the owner, co-owner, lessor or sublessor of premises upon which a licensee is permitted to manage, operate or conduct games of bingo.

~~(n)~~(o) "Licensee" means any nonprofit organization holding a license to manage, operate or conduct games of bingo or charitable raffles pursuant to K.S.A. 2016 Supp. 75-5171 through 75-5188, and amendments thereto. A license shall be required for each affiliated organization of any state or national nonprofit religious, charitable, fraternal, educational or veteran's organization.

~~(n)~~(p) "Mini bingo" means a game of call bingo in which the prizes awarded are not less than 50% of the gross receipts derived from the sale of cards or faces for participation in the game.

~~(n)~~(q) "Net proceeds" means the gross receipts received by the licensee from charges imposed on players for participation in games of bingo or raffles and any admission fees or charges less amounts actually paid as prizes in games of bingo or raffles and any tax payable by the licensee.

~~(n)~~(r) "Nonprofit religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society of individuals united for religious purposes at a definite place and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a

weekly basis and has been determined by the administrator to be organized and created as a bona fide religious organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) or section 501(d) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit religious organization by the administrator.

~~(s)~~(s) "Nonprofit charitable organization" means any organization which is organized and operated for:

(1) The relief of poverty, distress, or other condition of public concern within this state;

(2) financially supporting the activities of a charitable organization as defined in paragraph (1); or

(3) conferring direct benefits on the community at large; and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization and has been determined by the administrator to be organized and operated as a bona fide charitable organization and which has been exempted from the payment of federal income taxes as provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit charitable organization by the administrator.

~~(t)~~(t) "Nonprofit fraternal organization" means any organization within this state which exists for the common benefit, brotherhood, or other interests of its members and is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose within this state and has been determined by the administrator to be organized and operated as a bona fide fraternal organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit fraternal organization by the administrator.

~~(u)~~(u) "Nonprofit educational organization" means any public or private elementary or secondary school or institution of higher education which has been determined by the administrator to be organized and operated as a bona fide educational organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit educational organization by the administrator.

~~(v)~~(v) "Nonprofit veterans' organization" means any organization within this state or any branch, lodge or chapter of a national or state organization within this state, the membership of which consists exclusively of individuals who qualify for membership because they were or are members of the armed services or forces of the United States, or an auxiliary unit or society of such a nonprofit veterans' organization, the membership of which consists exclusively of individuals who were or are members of the armed services or forces of the United States, or are cadets, or are spouses, widows or widowers of individuals who were or are members of the armed services or forces of the United States, and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and has been determined by the administrator to be organized and operated as a bona fide veterans' organization and which has been exempted from the payment of federal income taxes as

provided by section 501(c)(4) or 501(c)(19) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit veterans' organization by the administrator.

~~(v)~~(w) "Person" means any natural person, corporation, partnership, trust or association.

~~(w)~~(x) "Premises" means any room, hall, building, enclosure or outdoor area used for the management, operation or conduct of a game of bingo by a licensee.

~~(x)~~(y) "Progressive bingo" means a game of call bingo in which either the established prize amount or number of bingo balls or objects called, or both, may be increased from one session to the next scheduled session if no player completes the required pattern within the specified number of bingo balls or objects drawn. The player's opportunity to win shall increase as the prize amount increases.

~~(y)~~(z) "Raffle" means a game of chance in which each participant buys a ticket or tickets from a nonprofit organization with each ticket providing an equal chance to win a prize and the winner being determined by a random drawing.

~~(z)~~(aa) "Reusable bingo card" means a reusable card which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by a number, letter or combination of numbers and letters. Only the center square shall be designated with the word "free." No two cards in the same game shall be identical.

~~(aa)~~(bb) "Secretary" means the secretary of revenue or the secretary's designee.

~~(bb)~~(cc) "Session" means a day on which a licensee conducts games of bingo."; Also on page 13, in line 28, by striking "and 75-6203"; in line 29, after "74-8723," by inserting "75-5173,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "the Kansas lottery" and inserting "gaming"; in line 2, before "repealing" by inserting "dealing with instant bingo vending machines,"; in line 3, after the first semicolon by inserting "concerning certain"; also in line 3, by striking "with third party vendors"; in line 4, by striking "and 75-6203"; in line 5, by striking the first "and" and inserting a comma; also in line 5, after "74-8711" by inserting "and 75-5173";

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

BUD ESTES

ROB OLSON

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

JOHN BARKER

RON HIGHLAND

LOUIS RUIZ

Conferees on part of House

Senator Estes moved the Senate adopt the Conference Committee Report on **HB 2313**.

Senator Bollier offered a substitute motion to not adopt the Conference Committee Report on **HB 2313** and appoint a new conference. The motion failed.

The Senate returned to Senator Estes' motion on **HB 2313**.

On roll call, the vote was: Yeas 21; Nays 16; Present and Passing 1; Absent or Not Voting 2.

Yeas: Billinger, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Givens, Goddard, Haley, Hawk, Holland, Kerschen, Longbine, Lynn, Masterson, Olson, Petersen, Skubal, Suellentrop, Taylor, Wagle.

Nays: Alley, Baumgardner, Berger, Bollier, Francisco, Hardy, Hensley, Hilderbrand, Kelly, McGinn, Pettey, Pilcher-Cook, Rogers, V. Schmidt, Sykes, Tyson.

Present and Passing: Pyle.

Absent or Not Voting: Bowers, Wilborn.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

Madam President: I vote "NO" on the Conference Committee Report on **House Bill 2313**. While I support the proposal to allow the Kansas Lottery to use lottery ticket vending machines, I do not support the addition of the change to the definition of "instant bingo" in the report that allows the use of bingo games utilizing electronically generated tickets from an instant bingo vending machine. My "NO" is not based on a specific objection to such machines, but because that change was added to the report without having been part of a bill that passed in either the House or the Senate. I believe it is important to follow a process that allows for public comment, discussion in a committee, or amendments on the floor.—MARCI FRANCISCO

Senator Bollier requests the record to show she concurs with the "Explanation of Vote" offered by Senator Francisco on **HB 2313**.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Wagle in the chair.

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2280**, requests a conference and has appointed Representatives Barker, Highland and Ruiz as conferees on the part of the house.

CHANGE OF REFERENCE

The President withdrew **HB 2182** from the Committee on **Commerce**, and referred the bill to the Committee on **Agriculture and Natural Resources**.

On motion of Vice President Longbine, the Senate adjourned until 8:00 a.m., Friday, May 19, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

