

# Journal of the Senate

TWENTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, February 25, 2014, 2:30 p.m.

The Senate was called to order by President Susan Wagle.  
The roll was called with forty senators present.  
Invocation by Father Don Davidson:

God of light, in this world which often seems very dark, we pray that all people of faith and goodwill would find a way to bring hope and warmth and life where it's needed the most. Whatever the coming days bring, remind us often of the needs of others, and help us to work toward finding peace. Help us to share the light of our hearts so that all your people may feel and see your presence. In your holy name we pray. Amen.

The Pledge of Allegiance was led by President Susan Wagle.

## POINT OF PERSONAL PRIVILEGE

Senator Masterson rose on a Point of Personal Privilege to recognize members of the Superintendent's Student Advisory Team from Andover Public Schools.

Introduced were Jamie Bohannon, Noah Bohannon, Colin Williams, Greg Rasmussen, Keturah Austin, Kevin Travia, Ryan Siebuhr and Garrett Swanson.

The senators honored the students with a standing ovation.

## POINT OF PERSONAL PRIVILEGE

Senator Faust-Goudeau rose on a Point of Personal Privilege to introduce members of the Delta Sigma Theta Sorority, in recognition of their 100th Centennial celebration. Introduced were Trudy, Baker, Sandra Kay Lyons, Sue Wilson, Monique King and Debra Riley.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 419**, AN ACT concerning gold and silver bullion coins; recognizing such coins as legal tender; providing income tax deduction and sales tax exemption; amending K.S.A. 2013 Supp. 79-32,117 and 79-3606 and repealing the existing sections, by Committee on Assessment and Taxation.

**SB 420**, AN ACT concerning the state capitol building; establishing the capitol meditation room; amending K.S.A. 2013 Supp. 75-3765a and repealing the existing section, by Committee on Ways and Means.

**SB 421**, AN ACT concerning the department of corrections; relating to program credits earned by an inmate; amending K.S.A. 2013 Supp. 21-6821 and repealing the existing section, by Committee on Ways and Means.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **Sub HB 2246, HB 2440.**

Ethics and Elections: **HB 2518.**

Financial Institutions and Insurance: **HB 2525, HB 2668.**

Judiciary: **SB 417, SB 418, HB 2398, HB 2444, HB 2447, HB 2448, HB 2466, HB 2490.**

Natural Resources: **HB 2548, HB 2550, HB 2551.**

Senate Select Committee on KPERS: **HB 2533, HB 2564, HB 2602.**

Transportation: **Sub HB 2452.**

Utilities: **HB 2636.**

#### CHANGE OF REFERENCE

The President withdrew **SB 400** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 362, SB 361** from the Committee on **Public Health and Welfare**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 374** from the Committee on **Utilities**, and referred the bill to the Committee on **Ways and Means**.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Smith, Arpke, Love, Petersen and Wolf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1784—

A RESOLUTION commemorating the 230<sup>th</sup> Anniversary of the Ratification of the Treaty of Paris and recognizing the Wyandot Chapter of the Kansas Daughters of the American Revolution for preserving American history.

WHEREAS, On January 14, 1784, the United States ratified the treaty with England, known as the Treaty of Paris, ending the Revolutionary War. Negotiations for peace with England began in 1782, and the Treaty of Paris was signed on September 3, 1782. Benjamin Franklin, John Jay, Henry Laurens and John Adams were members of the American negotiation team, known as the American Peace Commissioners; and

WHEREAS, The Wyandot Chapter of the Kansas Daughters of the American Revolution was founded on October 29, 1953, and currently has over 50 members. The Wyandot Chapter was named in honor of the Wyandot Indians who settled in Kansas City, Kansas. The chapter celebrated its 60<sup>th</sup> Diamond Jubilee on October 5, 2013; and

WHEREAS, The Kansas Daughters of the American Revolution began to preserve Kansas history in 1902 by placing markers along the part of the Santa Fe Trail that runs through Kansas. Today, the Kansas Daughters of the American Revolution preserve Kansas and American history by presenting programs on historical figures, including Lewis and Clark and their expedition in Kansas, Benjamin Franklin and Tecumseh, a

Native American leader of the Shawnee Nation; and

WHEREAS, The National Society of Daughters of the American Revolution works hard to sustain the heritage of the United States. As a volunteer women's service organization dedicated to promoting patriotism, they strive to preserve American history and secure America's future through better education for children; and

WHEREAS, Members of the National Society of Daughters of the American Revolution honor their commitment to the United States by reading the American's Creed at each meeting: "I believe in the United States of America as a government of the people, by the people, for the people, whose just powers are derived from the consent of the governed; a democracy in a Republic; a sovereign Nation of many sovereign States; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my country to love it; to support its constitution; to obey its laws; to respect its flag; and defend it against all enemies;" and

WHEREAS, Commemorating the anniversary of the ratification of the Treaty of Paris is important to promote patriotism in Kansas, preserve American history and educate Kansas children about the Revolutionary War: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we commemorate the 230<sup>th</sup> Anniversary of the ratification of the Treaty of Paris and recognize the Kansas Daughters of the American Revolution for preserving American history; and

*Be it further resolved:* That the Secretary of the Senate shall send an enrolled copy of this resolution to Carolyn Clyde Dolan, Regent; Terry Allen, Vice-Regent; Patricia Gates, Recording Secretary; Barb Belt, Corresponding Secretary; and Barbara Sass, Registrar.

On emergency motion of Senator Smith **SR 1784** was adopted unanimously.

Guests introduced were Jan English, Patricia Gates, Barbara Sass and Carolyn Clyde Dolan.

The senators honored them with a standing ovation.

## REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2023** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2023," as follows:

"Senate Substitute for HOUSE BILL NO. 2023

By Committee on Commerce

"AN ACT concerning workers compensation; enacting the public service benefits protection act; amending K.S.A. 2013 Supp. 44-501 and repealing the existing section."; and the substitute bill be passed.

Committee on **Education** recommends **S Sub HB 2197** be amended on page 1, by striking all in lines 7 through 21;

On page 2, in line 18, by striking "board of"; by striking all in line 19; in line 20, by striking "with each league";

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 343** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 343," as follows:

"Substitute for SENATE BILL NO. 343  
By Committee on Ethics and Elections

"AN ACT concerning governmental ethics; relating to use of public funds for lobbying."; and the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **SB 346** be amended on page 1, in line 9, by striking "60,000" and inserting "30,000"; also in line 9, by striking "license" and inserting "calendar"; and the bill be passed as amended.

Also, **SB 381** be amended on page 1, in line 11, by striking all after "(b)"; by striking all in lines 12 through 19; in line 20, by striking all before the period and inserting:

"When a regional emergency response team contracting with the state fire marshal pursuant to subsection (a) is activated to respond to a hazardous materials or search and rescue incident caused by a negligent or willful act or omission, the party responsible for the incident shall be liable to the state fire marshal for the reasonable and necessary costs of the response. In the case of an incident caused by a natural disaster, a party shall not be liable for the costs of the response unless that party's acts or omissions contributed to or aggravated the incident";

By redesignating subsections accordingly;

Also on page 1, in line 22, by striking "subsections" and inserting "subsection"; also in line 22, by striking "and (c)"; in line 23, after "act" by inserting "after notice and an opportunity for a hearing"; in line 29, by striking all after "act"; in line 30, by striking "attorney fees"; in line 34, before "division" by inserting "emergency response"; following line 35, by inserting:

"(e) For purposes of this section, the term "hazardous materials" means any material defined as a hazardous substance under 29 C.F.R. § 1910.120(a)(3), as in effect on the effective date of this act or any later version adopted by the state fire marshal in rules and regulations."; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 365** be passed.

Also, **SB 310** be amended on page 3, following line 30, by inserting:

"Sec. 2. K.S.A. 2013 Supp. 22-3011 is hereby amended to read as follows: 22-3011. (a) An indictment may be found only on the concurrence of 12 or more grand jurors. When an indictment is found, the presiding juror shall endorse thereon "a true bill" and shall sign the presiding juror's name as presiding juror.

(b) When 12 or more grand jurors do not concur in finding an indictment, the presiding juror shall certify that the indictment is "not a true bill."

(c) Indictments found by the grand jury shall be presented by its presiding juror, in the jury's presence, to the court and shall be filed and remain as records of the court.

(d) A grand jury impaneled pursuant to subsection (c) of K.S.A. 22-3001, and amendments thereto, may request that the attorney general prosecute the case arising from an indictment found by such grand jury if, in the opinion of the grand jury, the prosecuting attorney would not diligently prosecute such case. The attorney general shall prosecute such case unless the attorney general finds that there is not probable cause to believe that a crime has been committed or that the defendant has committed such crime.";

Also on page 3, in line 41, after "substance" by inserting ", *exception*"; also in line 41, before "An" by inserting:

"(1)";

Also on page 3, in line 42, by striking "that" and inserting "as provided further.

(2) ";

On page 4, in line 1, by striking "amendment of an"; in line 2, by striking "indictment" and inserting "substance of an indictment to be amended"; in line 4, after "attorney." by inserting "The provisions of this paragraph shall apply only to an indictment found by a grand jury impaneled pursuant to subsection (a) or (b) of K.S.A. 22-3001, and amendments thereto, and shall not apply to an indictment found by a grand jury impaneled pursuant to subsection (c) of K.S.A. 22-3001, and amendments thereto.";

Also on page 4, in line 7, after "22-3001" by inserting ", 22-3011";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "22-3001" by inserting ", 22-3011"; and the bill be passed as amended.

**SB 364** be amended on page 1, in line 8, by striking "On and after July 1, 2015," and inserting "For the fiscal year ending June 30, 2016, and for each fiscal year thereafter,"; in line 9, by striking "shall" and inserting "may elect to"; in line 12, by striking "shall" and inserting "who elects to"; in line 13, by striking "preparation of the"; also in line 13, by striking "to be submitted" and inserting "shall prepare such budget and submit it"; in line 14, after "thereto." by inserting "On or before August 1, 2014, and each August 1 thereafter, the chief judge shall notify the chief justice if such chief judge is electing to be responsible for the district court budget for the ensuing fiscal year."; in line 17, by striking "operation" and inserting "administration in which the chief judge has elected to be responsible for such budget"; in line 20, after "each" by inserting "such"; also in line 20, by striking "operation" and inserting "administration"; in line 21, after "each" by inserting "such"; also in line 21, after "district." by inserting "On or before June 30 of each fiscal year, the chief judge of each judicial district who elects to be responsible for the budget shall submit to the chief justice such district court's budget for the ensuing fiscal year based upon the dollar amount allocated to such district court by the chief justice for such fiscal year."; in line 32, by striking "each" and inserting "such"; also in line 32, after "district" by inserting "who elects to be responsible for the budget";

Also on page 1, following line 34, by inserting:

"(g) Whenever for any fiscal year it appears that the resources of any special revenue fund of the judicial branch are likely to be insufficient to cover the appropriations made against such special revenue funds, the chief justice shall be responsible for determining any allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of any special revenue fund of the judicial branch for that fiscal year. All chief judges who are responsible for the district court budget shall follow any allotment system determined by the chief justice for such fiscal year.";

On page 2, in line 5, by striking "take effect on July 1, 1979,"; in line 6, by striking "and shall"; in line 18, after the stricken material by inserting "In establishing the compensation for each type and class of personnel, the supreme court shall take into consideration: (1) The compensation of personnel in the executive branch of state government who have comparable duties and responsibilities; and (2) the compensation of similar personnel in the court systems of other states having comparable size, population and characteristics."; in line 33, by striking "each" and inserting "a"; in line 35, by striking "operations" and inserting "administration pursuant to section 1, and amendments thereto";

On page 4, in line 19, after "court" by inserting "pursuant to section 1, and amendments thereto";

On page 5, in line 4, before the period by inserting "and, subject to the provisions of section 1, and amendments thereto, rules of the supreme court"; in line 13, before the period by inserting "pursuant to the personnel plan of the supreme court or subject to the provisions of section 1, and amendments thereto"; in line 22, before "the" by inserting "staffing limits prescribed by the supreme court and appropriations therefor or"; in line 30, before "chief" by inserting "judicial personnel classification system or the"; also in line 30, after "judge" by inserting ", whichever is applicable";

On page 6, in line 12, before "in" by inserting "either"; in line 14, before "approved" by inserting "plan adopted by the supreme court or"; in line 15, after "appointed" by inserting ", whichever is applicable";

On page 7, in line 13, after "commissioners." by inserting "Chief judges who have not elected to be responsible for the district court budget pursuant to section 1, and amendments thereto, shall be subject to the supreme court rules relating to the district court operations payable by the county."; by striking all in lines 29 through 36 and inserting "Except as provided further, the supreme court shall establish a formal pay plan for court reporters serving district judges. Within the limits of legislative appropriations therefor, compensation of court reporters shall be paid by the state in an amount prescribed by the pay plan established by the supreme court. The plan shall detail each reporter's position by classification, pay grade and pay step. Pursuant to section 1, and amendments thereto, compensation of court reporters shall be paid by the state in an amount prescribed by the chief judge of the district court where such reporter serves. No county may supplement the compensation of any court reporter.";

On page 1, in the title, in line 1, by striking "allocating" and inserting "allowing the allocation of"; in line 2, by striking "operation" and inserting "administration"; and the bill be passed as amended.

**HB 2065** as further amended by House Committee be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2182," as follows:

"Senate Substitute for HOUSE BILL NO. 2182

By Committee on Judiciary

"AN ACT concerning judges; relating to vacancies in the office of judge of the district magistrate judge; amending K.S.A. 20-2909, 20-2911, 20-2914 and 25-312a and repealing the existing sections." and the substitute bill be passed.;

**HB 2182** as further amended by House Committee be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2182," as follows:

"Senate Substitute for HOUSE BILL NO. 2182

By Committee on Judiciary

"AN ACT concerning crimes, punishment and criminal procedure; relating to the Kansas racketeer influenced and corrupt organization act; amending K.S.A. 2013 Supp. 21-6328 and 21-6329 and repealing the existing sections."; and the substitute bill be passed.

**HB 2446** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2446," as follows:

"Senate Substitute for HOUSE BILL NO. 2446

By Committee on Judiciary

"AN ACT concerning courts; relating to reinstatement fees; judicial branch nonjudicial salary adjustment fund; court trustee operations fund; amending K.S.A. 2012 Supp. 8-241, as amended by section 1 of 2013 House Bill No. 2303 and 20-1a15, as amended by section 2 of 2013 House Bill No. 2303 and K.S.A. 2013 Supp. 20-380 and repealing the existing sections."; and the substitute bill be passed.

Committee on **Transportation** recommends **SB 273** be passed.

Committee on **Utilities** recommends **HB 2488**, as amended by House Committee, be amended on page 4, by striking all in lines 3 through 21; and by renumbering remaining paragraphs accordingly;

On page 5, in line 10, by striking "(14)" and inserting "(13)"; in line 12, by striking "(14)" and inserting "(13)"; in line 38, by striking "and" and inserting a comma; in line 39, after "99d07" by inserting "and 74-99d09";

On page 1, in the title, in line 4, after "sections" by inserting "; also repealing K.S.A. 2013 Supp. 74-99d09"; and the bill be passed as amended.

Also, **HCR 5014** be adopted.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Smith the following report was adopted:

Recommended:

**SB 344, SB 351, SB 371** be passed.

**SB 360, SB 372** be amended by the adoption of the committee amendments, and the bills be passed as amended.

The committee report of **HB 2070** recommending a **S Sub HB 2070** be adopted, and the substitute bill be passed.

**SCR 1619** be amended by adoption of the committee amendments, and the resolution be adopted as amended.

**SCR 1616** be amended by the adoption of the committee amendments, be further amended by Senator Tyson on page 1, in line 13, by striking "is central" and inserting "can be a contributing factor"; in line 16, by striking "necessary to" and inserting "encourage for"; in line 18, by striking all after the comma; in line 19, by striking "depend on Kansans"; in line 20, after "education" by inserting "is encouraged for economic prosperity for the state and the individual", and **SCR 1616** be adopted as further amended.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Wednesday, February 26, 2014.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*  
COREY CARNAHAN, *Secretary of the Senate.*

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