

Journal of the Senate

TWENTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, February 21, 2011, 2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today is Presidents' Day and tomorrow is the 279th birthday anniversary of our nation's first president, George Washington.

Thomas Jefferson said, "his integrity was the most pure, his justice the most inflexible I have ever know. He was, in every since of the word, a wise, a good, and a great man."

John Marshall, regarded as America's greatest jurist, said, "He was a sincere believer in the Christian faith, and a truly devout man."

The Duke of Wellington called him "the purist and noblest character of his time, perhaps of all time."

In his inaugural address to both houses of Congress, April 29, 1789, Washington proclaimed: "We ought to be...persuaded that the propitious smiles of Heaven....can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained;...the preservation of the sacred fire of history and the destiny of (our) model of government are justly considered as deeply, perhaps finally, staked of the experiment...."

Thank You, O God, for calling forth George Washington as the "Father of our Country."

I pray in the Name of Jesus Christ,

AMEN

The pledge of allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Emler rose on a Point of Personal Privilege to pay tribute to Col. Ballard and Col. Donlon, who were recipients of the Medal of Honor, the

highest military award of our Armed Forces. The Senate congratulated their achievements with a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 213, AN ACT concerning motor vehicles; relating to lightweight roadable vehicles; amending K.S.A. 2010 Supp. 8-126 and 8-1486 and repealing the existing sections, by Committee on Ways and Means.

SB 214, AN ACT concerning the groundwater management district act; amending K.S.A. 2010 Supp. 82a-1021 and repealing the existing section, by Committee on Ways and Means.

SB 215, AN ACT abolishing the liquefied petroleum gas advisory board; repealing K.S.A. 55-1811, by Committee on Ways and Means.

SB 216, AN ACT concerning emergency medical services; amending K.S.A. 65-6110, 65-6126, 65-6132 and 65-6133 and K.S.A. 2010 Supp. 65-6112, 65-6120, 65-6121, 65-6123, 65-6129 and 65-6144 and repealing the existing sections, by Committee on Ways and Means.

SB 217, AN ACT concerning the civil commitment of sexually violent predators; relating to reimbursement for costs related to habeas corpus actions; amending K.S.A. 2010 Supp. 59-29a04a and repealing the existing section, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 152**, **SB 187**, **SB 191**, **SB 200** from the Committee on **Natural Resources** and referred the bills to the Committee on **Ways and Means**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS INSURANCE DEPARTMENT

In compliance with KSA 40-108, Sandy Praeger, Commissioner of Insurance, submitted the 2010 Annual Report summarizing the activities of the department through the period ending December 31, 2010.

KANSAS PAROLE BOARD

February 11, 2011

Pursuant to the provisions of KSA 22-3710, Robert Sanders, Chairman, submitted the annual report of the Kansas Parole Board.

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 passage of **HB 2013, HB 2029, HB 2060, HB 2074, HB 2118, HB 2132, HB 2140, HB 2172, HB 2175, HB 2205, HB 2230.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2013, HB 2029, HB 2060, HB 2074, HB 2118, HB 2132, HB 2140, HB 2172, HB 2175, HB 2205, HB 2230 were introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 61** be passed.

Also, **SB 1** be amended on page 1, in line 8, after "user" by inserting ", or conspicuously display on an easily readable sign located near the cash register,"; in line 9, by striking all following the period; by striking all in line 10; in line 11, by striking all before "For";

On page 1, in the title, in line 2, by striking "requiring" and inserting "notice of"; also, in line 2, by striking all following "rate"; in line 3, by striking all before the period; and the bill be passed as amended.

SB 59 be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2010 Supp. 79-1701a is hereby amended to read as follows: 79-1701a. Any taxpayer, the county appraiser or the county clerk shall, on their own motion, request the board of county commissioners to order the correction of the clerical errors in the appraisal, assessment or tax rolls as described in K.S.A. 79-1701, and amendments thereto. The board of county commissioners of the several counties are hereby authorized to order the correction of clerical errors, specified in K.S.A. 79-1701, and amendments thereto, in the appraisal, assessment or tax rolls for the current year and the immediately preceding two years during the period on and after November 1 of each year. If a county treasurer has collected and distributed the property taxes of a taxpayer and it shall thereafter be determined that the tax computed and paid was based on an erroneous assessment due to a clerical error which resulted in an overpayment of taxes by the taxpayer, and such error is corrected under the provisions hereof then the county commissioners may direct a refund in the amount of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum, from the date of payment from tax moneys collected during the current year and approve a claim therefor. If all or any portion of the taxes on such property remain unpaid, the board of county commissioners shall cancel that portion of such unpaid taxes which were assessed on the basis of the error which is being corrected. In lieu of taking such a refund the taxpayer may, at the taxpayer's option, be allowed a credit on the current year's taxes in the amount of the overpayment plus interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, from the date of payment for the previous year. In the event the error results in an understatement of value or taxes as a result of a mathematical

miscomputation on the part of the county, the board of county commissioners of the several counties are hereby authorized to correct such error and order an additional assessment or tax bill, or both, to be issued, except that, in no such case shall the taxpayer be assessed interest or penalties on any tax which may be assessed. If such error applies to property which has been sold or otherwise transferred subsequent to the time the error was made, no such additional assessment or tax bill shall be issued.";

And by renumbering the sections accordingly;

Also on page 1, in line 25, after "rate" by inserting "for property tax delinquencies or underpayments of \$10,000 or more"; in line 34, by striking "is" and inserting "and K.S.A. 2010 Supp 79-1701a are";

On page 1, in the title, in line 1, after "concerning" by inserting "property"; in line 2, after "taxes;" by inserting "clerical errors;"; in line 3, after "79-2968" by inserting "and K.S.A. 2010 Supp. 79-1701a"; also in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

SB 198 be amended on page 1, in line 12, after "Clark," by inserting "Cloud, Comanche,"; also in line 12, after "Edwards," by inserting "Elk,"; in line 13, after "Marion," by inserting "Mitchell,"; in line 15, after "Smith," by inserting "Stafford,"; in line 16, after "Wichita" by inserting ", Wilson"; in line 27, after "(1)" by inserting "Establishes domicile in a rural opportunity zone on or after July 1, 2011, and prior to January 1, 2016, and"; in line 30, by striking "no"; also in line 30, after "income" by inserting "less than \$10,000 in any one year";

On page 2, in line 9, after the semicolon, by inserting "or"; in line 12, by striking "; or"; by striking all in line 13; in line 14, by striking all before the "period";

On page 3, in line 7, by striking "no"; also in line 7, after "income" by inserting "less than \$10,000 in any one year"; and the bill be passed as amended.

Committee on **Education** recommends **SB 155** be passed.

Also, **SB 143** be amended on page 10, in line 32, by striking "Kansas register" and inserting "statute book"; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 128, SB 129, SB 145** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 179** be passed.

Committee on **Judiciary** recommends **SB 63, SB 79, SB 83, SB 104, SB 176** be passed.

Also, **SB 74** be amended on page 2, following line 29, by inserting "(r) rape, section 67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(s) criminal sodomy, as defined in subsection (a)(3) or (a)(4) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, and aggravated criminal sodomy, as defined in subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(t) indecent liberties with a child and aggravated indecent liberties with a

child, section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(u) unlawful voluntary sexual relations, section 71 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(v) indecent solicitation of a child and aggravated indecent solicitation of a child, section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;"

And by redesignating subsections accordingly;

On page 1, in the title, in line 2, by striking "electronic solicitation; sexual"; in line 3, by striking all before "amending"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 188** be passed.

Also, **SB 122** be amended on page 1, in line 9, after "rivers" by inserting "from the effects of erosion"; also in line 9, by striking "It includes, but is" and inserting "Such projects include, but are"; in line 12, by striking "and"; by striking all in lines 13 through 15; in line 16, by striking "82a of the Kansas Statutes Annotated, and amendments thereto"; in line 17, following "office;" by inserting "and"; in line 18, by striking all following "(3)"; by striking all in lines 19 through 21; in line 22, by striking "(4)"; in line 27, following "for" by inserting "construction and maintenance of"; also in line 27, following "with" by inserting "cooperating landowners in such projects with"; in line 33, by striking "conservation project or"; in line 34, by striking "holding a riparian interest at"; in line 35 by striking all before the "period" and inserting "that, in the opinion of the director, holds a riparian interest in the river and may have an interest in the project or results thereof"; in line 36 before "entities" by inserting "persons or";

On page 2, in line 5, by striking "The director shall also"; by striking all in line 6; in line 7, following "(4)" by inserting "A copy of"; also, in line 7, by striking "into by the director"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 133**, **SB 139** be passed.

Also, **SB 76** be amended on page 2, in line 16, following "credentials" by inserting "recognized by the board"; also in line 16, following the "period" by inserting "Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."";

On page 3, in line 9, following "credentials" by inserting "recognized by the board"; also in line 9, following the "period" by inserting "Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy.""; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

On motion of Senator Emler, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of

General Orders with Senator McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 23, SB 24, SB 28, SB 36, SB 41, SB 46, SB 52, SB 123** be passed.

SB 8 be amended by motion of Senator Petersen, on page 2, following line 8, by inserting "(4) Notwithstanding any of the provisions of paragraphs (2) and (3), any "information technology project" that is funded by moneys expended from or otherwise transferred from the Kansas universal service fund shall be deemed an "information technology project" as that term is defined in paragraph (1).

(5) Notwithstanding any of the provisions of paragraph (2), any project for a major computer, telecommunications or other information technology improvement that has proposed expenditures greater than \$250,000, but less than \$1,000,000 for: (A) Any project, other than infrastructure projects, that has proposed expenditures for new equipment or software; or (B) data or consulting or other professional services for such a project shall be implemented in compliance with the information technology architecture adopted by the information technology executive council pursuant to K.S.A. 2010 Supp. 75-7203, and amendments thereto. Each calendar quarter the state university shall file a high-level information technology project plan that includes a risk assessment and management plan with the chief information technology officer." and **SB 8** be passed as amended.

SB 6, SB 55, SB 97, SB 108 be amended by the adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Haley to amend **SB 6** failed and the following amendment was rejected.

"Section 1. K.S.A. 22-2501 is hereby amended to read as follows: 22-2501. When a lawful arrest is effected a law enforcement officer may reasonably search the person arrested and the area within such person's immediate presence for the purpose of:

- (a) Protecting the officer from attack;
- (b) preventing the person from escaping; or
- (c) discovering the fruits, instrumentalities, or evidence of a *the* crime.";

And by renumbering sections accordingly;.

Also on page 1, in the title, in line 1, by striking "repealing K.S.A. 22-2501" and inserting "concerning criminal procedure"; in line 3, before the period by inserting "; amending K.S.A. 22-2501 and repealing the existing section"

SB 90 be amended by the adoption of the committee amendments, be further amended by motion of Senator V. Schmidt, on page 3, in line 39, by striking "on" and inserting "of";

On page 4, in line 4, by striking "appeal" and inserting "appeals" and **SB 90** be passed as further amended.

SB 134 be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt, on page 11, in line 34, by striking "(1)";

On page 12, in line 3, by striking the comma and inserting ": (1)"; in line 4, by striking "and " and inserting "; (2)"; in line 16, after the semicolon by inserting "and" in line 17, by striking "(2) be currently licensed"; and inserting "(3) evidence of current licensure";also in line 17, by striking "; and";and inserting a period; in line 18, by striking "(3)";

On page 29, in line 26, by striking "licensed under"; by striking all in line 27; in line 28, by striking "therapeutic licensee," and **SB 134** be passed as further amended.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m,
Tuesday, February 22, 2011.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

