

Journal of the House

SIXTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, May 17, 2013, 10:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 110 members present.

Rep. Wolfe Moore was excused on verified illness.

Reps. Carlin, Cassidy, Goico, Hedke, Hermanson, Johnson, Kleeb, Meigs, Moxley, Osterman, Rubin, Suellentrop, Victors and Weber were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Jim Peters, pastor, Our Savior's Lutheran Church, Topeka:

God of abundance,

With all creation we give you thanks for the many gifts you pour out upon us. You fill the earth with good things and all we ask in return is the ability to receive them all with a grateful heart. Shower your blessings on this day. Bless the work of all our representatives and help them to accomplish all that you have in store for them. Help us to see your hand in every good thing and your aid in everything that challenges us. We ask for all of these things in your gracious name. Amen.

The Pledge of Allegiance was led by Rep. Houston.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Dove are spread upon the Journal:

I would like to introduce Zachary Hevel who has been accepted in the Air Force Academy graduating class of 2017.

When I met Zach, his response to my question of what inspired him to look in his future as a military pilot was simple. He asked his dad what he had to do to be a part of the best of the best. His dad's response was to study hard.

Here is a prime example of leadership. The example of a family with the goals in mind to lead in a positive direction.

Rep. Dove introduced his family and presented Zach with a framed House certificate.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to committees as indicated:

Appropriations: **HB 2415**; **SB 245**, **SB 246**.

Judiciary: **HCR 5019**.

MESSAGES FROM THE SENATE

The Senate adopts the Conference Committee report on **SB 20**.

The Senate adopts the Conference Committee report on **HB 2213**.

The Senate adopts the Conference Committee report to agree to disagree on **SB 63**, and has appointed Senators King, Smith and Haley as second conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2249**, **HB 2216**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2249** 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 1, following line 6, by inserting:

New Section 1. (a) Except as provided by subsection (b), no city or county shall adopt by ordinance, resolution or in a solid waste management plan under K.S.A. 65-3405 or 65-3410, and amendments thereto, restrictions for any solid waste disposal area within its boundaries if such restrictions supersede or impair the local legislation of another city or county being serviced by the same solid waste disposal area or require another city or county to adopt new solid waste management requirements not currently required by statewide rules and regulations.

(b) A city or county may adopt restrictions for a solid waste disposal area under subsection (a) if:

- (1) The city or county owns the solid waste disposal area; or
- (2) such restrictions apply to the residents of such city or county but not to residents of another city or county being serviced by the same solid waste disposal area.

(c) This section shall be part of and supplemental to the provisions of article 34 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. (a) On or before January 1, 2014, the secretary of health and environment shall prepare, with review and input from operators of municipal solid waste landfills, haulers of solid waste, business and residential consumers of haulers of solid waste, cities and counties, a report on solid waste management in Kansas for the senate committee on ethics, elections and local government and the house committee on local government. The report shall include, but not be limited to, the following:

(1) A review of statutes, rules and regulations and policies on solid waste management, including, but not limited to, details on yard waste, recycling, generation rates, composting, precipitation, source reduction efforts, population, landfill capacity and gas recovery in landfills; and

(2) recommendations for legislative changes and estimates of the cost of the state of implementing such changes.

(b) This section shall be part of and supplemental to the provisions of article 34 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.";

On page 2, before line 43, by inserting:

Sec. 4. K.S.A. 2012 Supp. 75-2724 is hereby amended to read as follows: 75-2724.

(a) The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will ~~encroach upon~~, damage or destroy any historic property included in the national register of historic places or the state register of historic places ~~or the environs of such property~~ until the state historic preservation officer has been given notice, as provided herein, and an opportunity to investigate and comment upon the proposed project. Notice to the state historic preservation officer shall be given by the state or any political subdivision of the state when the proposed project, or any portion thereof, ~~is located within 500 feet of the boundaries of~~ directly involves a historic property ~~located within the corporate limits of a city, or within 1,000 feet of the boundaries of a historic property located in the unincorporated portion of a county.~~ Notwithstanding the notice herein required, nothing in this section shall be interpreted as limiting the authority of the state historic preservation officer to investigate, comment and make the determinations otherwise permitted by this section ~~regardless of the proximity of any proposed project to the boundaries of~~ on a project directly involving a historic property. The state historic preservation officer may solicit the advice and recommendations of the historic sites board of review with respect to such project and may direct that a public hearing or hearings be held thereon. Any ~~such~~ public hearing or hearings held pursuant to this subsection or held pursuant to authority delegated by the state historical preservation officer under subsection (e) or (f) shall be held within 60 days from the date of receipt of notice by the state historical preservation officer from the state or any political subdivision of the state as provided herein. If the state historic preservation officer determines, with or without having been given notice of the proposed project, that ~~such the~~ proposed project will ~~encroach upon~~, damage or destroy any historic property included in the national register of historic places or the state register of historic places ~~or the environs of such property~~, ~~such the~~ project shall not proceed until:

(1) The governor, in the case of a project of the state or an instrumentality thereof, or the governing body of the political subdivision, in the case of a project of a political subdivision or an instrumentality thereof, has made a determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use; and

(2) five days notice of such determination has been given, by certified mail, to the state historic preservation officer.

(b) Any person aggrieved by the determination of the governor pursuant to this section may seek review of such determination in accordance with the Kansas judicial review act. Any person aggrieved by the determination of a governing body pursuant to

this section may seek review of such determination in accordance with K.S.A. 60-2101, and amendments thereto.

(c) The failure of the state historic preservation officer to initiate an investigation of any proposed project within 30 days from the date of receipt of notice thereof shall constitute such officer's approval of such project.

(d) Failure of any person or entity to apply for and obtain the proper or required building or demolition permit before undertaking a project that will ~~encroach upon~~, damage or destroy any historic property included in the national register of historic places or the state register of historic places, ~~or the environs of such property~~, shall be subject to a civil penalty not to exceed \$25,000 for each violation. The attorney general may seek such penalties and other relief through actions filed in district court.

(e) (1) The state historic preservation officer may enter into an agreement authorizing a city or county to make recommendations or to perform any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c) if the state historic preservation officer determines that the city or county has enacted a comprehensive local historic preservation ordinance, established a local historic preservation board or commission and is actively engaged in a local historic preservation program. The agreement shall specify the authority delegated to the city or county by the state historic preservation officer, the manner in which the city or county shall report its decisions to the state historic preservation officer, the conditions under which the city or county can request assistance from the state historic preservation officer in performing certain project reviews, the length of time the agreement is to be valid and provisions for termination of the agreement. Such agreement shall provide that the state historic preservation officer shall retain final authority to implement the provisions of this act. The state historic preservation officer shall adopt any rules and regulations necessary to implement the provisions of this subsection.

(2) An agreement with a city or county authorized by this subsection shall not be construed as limiting the authority of the state historic preservation officer to investigate, comment and make determinations otherwise permitted by this section.

(f) The state historic preservation officer may enter into agreements with the state board of regents or any state educational institution under the control and supervision of the state board of regents to perform any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c).";

And by renumbering sections accordingly;

On page 3, in line 1, by striking "is" and inserting "and 75-2724 are";

On page 1, in the title, by striking all following "concerning"; in line 2, by striking all before the semicolon and inserting "certain property issues; relating to historic preservation, taxation and solid waste"; in line 3, following "12-546" by inserting "and 75-2724"; in line 4, by striking "section" and inserting "sections";

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

DENNIS PYLE

MITCH HOLMES

Conferees on part of Senate

STEVE HUEBERT

TOM PHILLIPS

Conferees on part of House

On motion of Rep. Huebert to adopt the conference committee report on **HB 2249**, Rep. Sloan offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion did not prevail.

The question then reverted back to the original motion of Rep. Huebert and the conference committee report was adopted.

On roll call, the vote was: Yeas 92; Nays 18; Present but not voting: 0; Absent or not voting: 15.

Yeas: Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Carlson, Carpenter, Christmann, Claeys, Clayton, Concannon, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Gonzalez, Grant, Grosserode, Hawkins, Henry, Hibbard, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Jones, Kahrs, Kelley, Kelly, Lunn, Lusk, Macheers, Mast, McPherson, Menghini, Merrick, Montgomery, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Ryckman Jr., Ryckman Sr., Sawyer, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Sloop, Sutton, Swanson, Thimesch, Todd, Trimmer, Vickrey, Ward, Waymaster, Whipple.

Nays: Alcalá, Campbell, Corbet, Crum, Dillmore, Henderson, Highland, Kinzer, Kueher, Lane, Meier, Peterson, Ruiz, Schroeder, Tietze, Weigel, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Carlin, Cassidy, Goico, Hedke, Hermanson, Johnson, KleeB, Meigs, Moxley, Osterman, Rubin, Suellentrop, Victors, Weber, Wolfe Moore.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. DeGraaf, the House nonconcurred in Senate amendments to **HB 2216** and asked for a conference.

Speaker Merrick thereupon appointed Reps. DeGraaf, Howell and Lane as conferees on the part of the House.

REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

Request No. 110, by Representative Trimmer, congratulating Sam Maurer, Emporia State Debate Coach, in recognition for coaching the national championship team of the Cross Examination Debate Association and the National Debate Tournament;

Request No. 111, by Representative Gonzales, commending Tegan Bowers on achieving the rank of Eagle Scout;

Request No. 112, by Representative Goico, commending Tyler Hansel on achieving the rank of Eagle Scout;

Request No. 113, by Representative Meigs, congratulating Justin Leaton and Amber Westbrook on their wedding day;

Request No. 114, by Representatives Thimesh and Christmann, congratulating the Sterling Warriors Baseball Team, Coaches and Athletic Director on advancing to the NAIA World Series, the first time ANY college in the KCAC has ever made it to the

NAIA World Series;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Vickrey, the committee report was adopted

REPORT ON ENROLLED RESOLUTIONS

HCR 5018, HR 6031 reported correctly enrolled and properly signed on May 17, 2013.

On motion of Rep. Vickrey, the House adjourned until 2:00 p.m, Monday, May 20, 2013.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

