

Journal of the House

TWENTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, February 16, 2011, 11:00 a.m.

The House met pursuant to adjournment with Speaker O'Neal in the chair.

The roll was called with 118 members present.

Reps. Fund, Kiegerl, O'Hara and K. Wolf were excused on verified illness.

Reps. Peterson, Schwab and Suellentrop were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Lord God,
You are our strength and our salvation.
Fill us with Your love and compassion.
Cleanse us from self-interest and help us be others-minded.
May our heart-felt dedication to public service
be transformed into deeper commitment to serve You,
and in doing so, serve others.
Help us to desire Your understanding, truth and peace
so that we many administer it to others.
We ask for continued healing for our colleagues,
Representatives Kiegerl and Fund.
Touch them physically, fill them with Your peace,
and give strength to their families.
In Christ's Name I pray. Amen.

The Pledge of Allegiance was led by Rep. Brookens.

Kansas Trivia Question – Who owned the cabin where Dr. Highley composed the song that would later become our official state song and where was it located?

Answer: R.A. “Pete” Rust, who farmed northwest of Smith Center.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2341, AN ACT concerning waste; relating to litter control; requiring certain beverage containers to be redeemable; prohibiting certain conduct and providing penalty for violation thereof; establishing the returnable container deposit fund, by Committee on Appropriations.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Corrections and Juvenile Justice: **HB 2339**.
 Health and Human Services: **HB 2340**.
 Judiciary: **HCR 5015**.
 Taxation: **HB 2338**.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2018** from the Calendar under the heading General Orders and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2310**, **HB 2311**, **HB 2328**, **HB 2333** from Committee on Pensions and Benefits and referral to Committee on Appropriations.

COMMUNICATIONS FROM STATE OFFICERS

From Kevin M. Carr, President & CEO, Kansas Technology Enterprise Corporation (KTEC), pursuant to K.S.A 74-8136(c), Annual Report for the Angel Tax Credit program.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

MESSAGES FROM THE SENATE

Announcing passage of **HB 2014**, as amended by **S. Sub. for HB 2014**.

Also, announcing adoption of **HCR 5014**, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Supreme Court.

Also, announcing the appointment of Senators King and Kultala as Senate members of the committee to wait upon the Supreme Court Justices.

Also, announcing passage of **SB 5**, **SB 12**, **SB 34**, **SB 45**, **SB 58**, **SB 60**, **SB 62**, **SB 65**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were therupon introduced and read by title:

SB 5, **SB 12**, **SB 34**, **SB 45**, **SB 58**, **SB 60**, **SB 62**, **SB 65**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6009**—

By Committee on Agriculture and Natural Resources

A RESOLUTION urging the U.S. Army Corps of Engineers to accept "Life of the

Project" conservation easements.

WHEREAS, Conservation easements are needed to protect mitigation areas resulting from construction of watershed district flood retarding dams that require constant maintenance and management for an extended period of time; and

WHEREAS, The life of the project is defined as a period of time whereby the dam continues to function as a result of maintenance or rehabilitation; and

WHEREAS, By definition, the life of the project would therefore equate to perpetuity; and

WHEREAS, Since the terms would be equal, it is not necessary for the easement language to state perpetuity as the required term of the easement; and

WHEREAS, Landowners are reluctant to sign perpetuity easements for a period of time without limits; and

WHEREAS, Whenever the impacted stream, woodland or wetland is returned to its pre-dam condition as agreed to by the Corps, dam owner and landowner, the easement would be terminated; and

WHEREAS, The intent to maintain the mitigation easement area the same as is required of the project that created the need for the mitigation area is understood by the dam owner, landowner and the Corps: Now, therefore,

Be it resolved by the House of the State of Kansas: That the members of the Kansas House of Representatives stand in support of efforts to convince the U.S. Army Corps of Engineers to accept conservation easement language for the "Life of the Project" and not for perpetuity; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the Secretary of Defense, the Speaker of the United States House of Representatives, the United States Senate Majority Leader, the United States Senate Republican Leader, and each member of the Kansas Congressional Delegation.

CONSENT CALENDAR

No objection was made to **HB 2074** appearing on the calendar for the first day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2017, AN ACT concerning school districts; relating to enrollment of pupils eligible for free meals under the national school lunch act, was considered on final action.

On roll call, the vote was: Yeas 85; Nays 33; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alford, Arpke, Aurand, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Neal, Osterman, Otto, Patton, Peck, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Smith, Spalding, Swanson, Tyson, Vickrey, Weber, B.

Wolf, Worley.

Nays: Ballard, Burroughs, Carlin, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Pauls, Phelps, Pottorff, Ruiz, Slattery, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Fund, Kiegerl, O'Hara, Peterson, Schwab, Suellentrop, K. Wolf.

The bill passed, as amended.

HB 2038, AN ACT concerning crimes, criminal procedure and punishment; amending section 298 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kinzer, Kleebe, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Fund, Kiegerl, O'Hara, Peterson, Schwab, Suellentrop, K. Wolf.

The bill passed.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Rhoades, the House nonconcurrent in Senate amendments to **S. Sub. for HB 2014** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Rhoades, Kelley and Feuerborn as conferees on the part of the House.

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Kinzer in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Kinzer, Committee of the Whole report, as follows, was adopted: Recommended that **HB 2071** be passed.

Committee report recommending a substitute bill to **Sub. HB 2134** be adopted; also,

on motion of Rep. Brown, be amended on page 31, in line 20, after "thereto," by inserting "from an authorized medical provider"; in line 22, after "treatment" by inserting "from an authorized medical provider";

Also, on further motion of Rep. Brown, **Sub. HB 2134** be amended on page 3, in line 31, after "compensation" by inserting ", except for medical benefits provided pursuant to K.S.A. 44-510h, and amendments thereto,";

On page 5, in line 35, by striking "(b)" and inserting "(c)";

On page 27, in line 1, by striking ". To calculate the"; by striking all in lines 2 through 4; in line 5, by striking all before the comma and inserting ", excluding the first 15 weeks of temporary total disability compensation that was paid"; following line 11, by inserting "To calculate the number of weeks of temporary disability compensation to be deducted pursuant to subparagraph (F)(ii), divide the sum of all temporary total and temporary partial disability compensation paid by the payment rate determined in subsection (a)(2)(E)(i)."; and **Sub. HB 2134** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2184, HB 2205** be passed.

Committee on **Corrections and Juvenile Justice** recommends **HB 2104** be amended on page 3, in line 6, by striking all following "(16)(a)"; in line 7, by striking all before ",such" and inserting "information limited to whether a person is a current patient of any treatment facility"; also in line 7, by striking "patient" and inserting "person"; in line 9, by striking "individual" and inserting "person"; in line 11, by striking "individual" and inserting "person"; in line 15, by striking "individual" and inserting "person"; on line 31 by striking "(b)" and inserting "(c)"; and the bill be passed as amended.

Committee on **Education** recommends **HB 2015** be amended on page 1, following line 31, by inserting a new paragraph to read as follows: "(e) The provisions of this section shall expire on June 30, 2014."; and the bill be passed as amended.

Committee on **Financial Institutions** recommends **HB 2124** be amended on page 2, in line 30, after "more" by inserting "professional";

On page 1, in the title, in line 1, after "to" by inserting "professional"; and the bill be passed as amended.

Committee on **Government Efficiency** recommends **HB 2175, HB 2230** be passed.

Committee on **Judiciary** recommends **HB 2010** be passed.

Committee on **Judiciary** recommends **HB 2027** be amended on page 1, in line 20, by striking "pursuant to"; in line 21, by striking "procedures provided" and inserting "under the Kansas administrative procedure act or other procedures required"; also in line 21, by striking all following "law"; by striking all in line 22; in line 23, by striking all before the period and inserting ", except that such order shall not be used as precedent in any subsequent adjudication against a person who was not a party to the original adjudication unless the order is:

- (i) Designated by the agency as precedent;
- (ii) listed in a publicly available index, maintained by the agency and published on its website, of all orders designated as precedent;
- (iii) published by posting in full on an agency website in a format capable of being searched by key terms;

(iv) made available to the public in such other manner as may be prescribed by the secretary of state; and

(v) not overruled by a court or later adjudication"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2169**, **HB 2172** be passed.

Committee on **Transportation** recommends **HB 2132** be amended on page 1, in line 33, by striking "No renewal of registration shall be made to any applicant until"; by striking all in line 34; in line 35, by striking "(b)."; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2171** be amended on page 5, in line 18, by striking "\$60" and inserting "\$75"; in line 19, by striking "\$60" and inserting "\$75"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were thereupon introduced and read by title:

HB 2342, AN ACT concerning property taxation; relating to appraisals; mill levy adjustments; resolutions; amending K.S.A. 79-5a04, 79-1412a, 79-1460a and 79-1466 and K.S.A. 2010 Supp. 79-1448, 79-1460 and 79-2925b and repealing the existing sections, by Committee on Taxation.

HB 2343, AN ACT concerning children and minors; relating to adoption; amending K.S.A. 2010 Supp. 38-2270 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2344, AN ACT concerning children and minors; relating to permanency planning; amending K.S.A. 2010 Supp. 38-2263 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2345, AN ACT concerning children and minors; relating to orders of temporary custody; amending K.S.A. 2010 Supp. 38-2243 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2346, AN ACT concerning criminal procedure; relating to sex offenders; amending K.S.A. 22-4903 and K.S.A. 2010 Supp. 8-243, 8-255, 22-4902, 22-4904 and 22-4913 and sections 7, 285 and 299 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections, by Committee on Federal and State Affairs.

HOUSE CONCURRENT RESOLUTION No. **HCR 5016**—

By Representative Fawcett

A CONCURRENT RESOLUTION urging the United States Congress to extend equal benefits for the treatment of Agent Orange exposure to Vietnam veterans who served outside of Vietnam.

WHEREAS, Thousands of veterans of the Vietnam War suffer from the effects of exposure to Agent Orange, a powerful and toxic defoliant used to clear areas of dense vegetation used as enemy hideouts; and

WHEREAS, Agent Orange exposure causes a variety of devastating health effects, such as increased rates of cancer, immune system disorders and genetic maladies which

lead to birth defects in the children of those exposed; and

WHEREAS, Although the use of Agent Orange is most commonly associated with the country of Vietnam, it was also used extensively in surrounding areas such as Thailand; and

WHEREAS, Many veterans affected by exposure to Agent Orange proudly and bravely served their country in these surrounding areas without ever actually setting foot in Vietnam itself; and

WHEREAS, These veterans are struggling to obtain the same medical benefits to deal with their exposure as those who served on the ground in Vietnam: Now, therefore, *Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the Congress of the United States is urged to work with the Department of Veterans Affairs to ensure that Vietnam veterans who served in areas surrounding Vietnam itself are able to receive the same medical benefits for the treatment of Agent Orange exposure as those who served within the country's borders; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send an enrolled copy of this resolution to Representative Fawcett.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Thursday, February, 17, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

