

Journal of the Senate

FORTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 21, 2003—9:30 a.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-five senators present.
Senators Allen, Barnett, Brungardt, Donovan and Wagle were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As we seek to force a change of regime in Iraq, we pray for those who share the reins of leadership.

We pray for our President, George W. Bush.

We pray for our Secretary of Defense, Donald Rumsfeld.

We pray for our Secretary of State, Colin Powell.

We pray for the Chairman of our Joint Chiefs of Staff, General Richard Myers.

We pray for the leader of our military's Central Command, General Tommy Franks.

We pray for our National Security Advisor, Condoleezza Rice.

Give them godly wisdom, Lord.

And keep them safe and well.

Any doubts about their talents

Help them to dispel.

Keep them cool when under pressure;

Keep them focused on the goal;

Help them always do what's right,

And pay no attention to the polls.

Keep them alert with proper rest;

Help them rely upon their skill.

Never let them make decisions.

Which do not comply with Your will.

The apostle's words unto the Romans

Can always be a stimulus:

"If it's true that God is for us,

Who can be against us?" (Romans 8:31)

I pray in Jesus' Name,

AMEN

GUESTS

Senator Haley rose on a point of personal privilege to introduce his daughters, Mariah Danielle and Malori Simone.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Elections and Local Government: **SB 266**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 43** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Feleciano as a conference committee on the part of the Senate.

On motion of Senator O'Connor the Senate nonconcurred in the House amendments to **SB 102** and requested a conference committee be appointed.

The President appointed Senators Allen, O'Connor and Gilstrap as a conference committee on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 29**, as amended by Senate Committee of the Whole, be amended on page 95, by striking all in lines 7 through 43;

On page 96, by striking all in lines 1 through 3;

And by renumbering sections accordingly;

Also on page 96, in line 33, by striking "and"; in line 35, before the period, by inserting "; and

(7) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity";

On page 98, in line 12, before the period by inserting "; and

(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity";

On page 99, in line 40, by striking "and";

On page 100, in line 4, before the period by inserting "; and

(7) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity";

On page 105, in line 40, by striking "17-7501,";

On page 1, in the title, in line 20, by striking "17-7501,"; and the bill be passed as amended.

Also **HB 2005**, as amended by House Committee, be amended on page 1, in line 31, by striking "2002" and inserting "2004"; in line 33, by striking all after "to"; in line 34, by striking all before "20%"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **HB 2122**, as amended by House Committee, be amended on page 2, in line 6, by striking all preceding the semicolon;

On page 3, in line 37, following "liens" by inserting "or mechanics' liens"; in line 40, by striking all after the second comma; in line 41, by striking "buyer and"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2078**, as amended by House Committee of the Whole, be amended on page 3, by striking all in lines 4 through 15 and relettering the remaining subsections accordingly;

On page 4, in line 25, by striking "(n)(1) and"; in line 26, by striking "(n)(2)" and inserting "(m)(1) and (m)(2)"; in line 36, by striking "(n)" and inserting "(m)"; in line 40, by striking "(n)" and inserting "(m)";

On page 5, in line 5, by striking all after "valid"; in line 6, by striking all before the period and inserting "within a designated county or counties where the qualifying landowner or tenant's lands are located"; also on page 5, in line 11, by striking all after the period; by striking all in lines 12 through 14; in line 16, by striking "2005" and inserting "2008";

On page 9, after line 13, by inserting the following:

"New Sec. 4. The department is hereby authorized and directed to develop a report containing recommendations for the establishment of a landowner deer management pro-

gram. The report shall include recommended procedures, requirements and guidelines to provide qualified landowners an allotment of antlered and antlerless deer permits that may be transferred by the landowner to resident or nonresident deer hunters for use on such landowner's property and may include such other recommendations as the department finds appropriate. Such report shall be presented to the senate natural resources committee and the house environment committee on or before January 15, 2004.

Sec. 5. K.S.A. 2002 Supp. 32-1047 is hereby amended to read as follows: 32-1047. The department is hereby empowered and directed to seize and possess any wildlife which is taken, possessed, sold or transported unlawfully, and any steel trap, snare or other device or equipment used in taking or transporting wildlife unlawfully or during closed season. The department is *hereby* authorized *and directed* to:

(a) Sell the seized item, *including wildlife parts with a dollar value*, and remit the proceeds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. *If the seized item is a firearm that has been forfeited pursuant to K.S.A. 21-4206, and amendments thereto, then it may be sold unless: (1) The firearm is significantly altered in any manner; or (2) the sale and public possession of such firearm is otherwise prohibited by law.* Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~fee fund designated by the secretary~~ *wildlife fee fund*; or

(b) retain the seized item for educational, scientific or department operational purposes.

New Sec. 6. The secretary shall identify local geographical areas in which deer populations are causing significant property damage. The secretary is hereby authorized and directed to take such actions as are necessary to reduce the deer populations in such areas for the purpose of reducing damage to private property.”;

And by renumbering the remaining sections accordingly;

Also on page 9, in line 14, by striking the second “and” and inserting a comma; also in line 14, after “32-988” by inserting “and 32-1047”; in line 16, after “after” by inserting “January 1, 2004, and”;

On page 1, in the title, in line 14, by striking “and” where it appears for the second time and inserting a comma; also in line 14, after “32-988” by inserting “and 32-1047”; and the bill be passed as amended.

Also **HB 2247**, as amended by House Committee, be amended on page 6, by striking all in lines 25 through 31; in line 32, by striking “(d)” and inserting “(c)”;

On page 9, following line 27, by inserting the following:

“Sec. 16. K.S.A. 2002 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 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 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 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 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 act for judicial review and civil enforcement of agency actions. 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, *except that such environs shall not include land devoted to agricultural use as defined by K.S.A. 12-519, and amendments thereto, and any land subject to the exemptions under K.S.A. 19-2908 and 19-2921, and amendments thereto*, 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).

Sec. 17. K.S.A. 2002 Supp. 75-2724 is hereby repealed.”;

By renumbering section 16 as section 17;

On page 1, in the title, in line 10, by striking “environmental contamination of”; in line 12, before the period by inserting “; also concerning state historic property; amending K.S.A. 2002 Supp. 75-2724 and repealing the existing section”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **Substitute for HB 2197**, as amended by House Committee of the Whole, be passed.

Committee on **Ways and Means** recommends **HB 2397** be amended on page 2, following line 1, by inserting the following:

“Sec. 2. (a) Subject to the limitations of this section, during the fiscal year ending June 30, 2003, and each fiscal year thereafter, if it appears that the resources are insufficient to meet in full the estimated expenditures as they become due to meet the financial obligations imposed by law on the water marketing fund of the Kansas water office as a result of a cash flow shortfall, the pooled money investment board is authorized and directed to loan to the director of the Kansas water office sufficient funds to maintain the cash flow of the water marketing fund upon approval of such loan by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto. No loan shall be made unless the terms thereof have been approved by the director of the budget. A copy of the terms of the loan shall be submitted to the director of the legislative research department. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Each such loan shall bear interest at a rate equal to the interest rate being paid on state inactive account moneys at the time of the making of such loan. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(b) Upon certification by the pooled money investment board by the director of the Kansas water office of the amount of each loan authorized pursuant to subsection (a), the pooled money investment board shall transfer each such amount certified by the director of the Kansas water office from the state bank account or accounts prescribed in subsection (a) to the water marketing fund of the Kansas water office.

(c) The principal and interest of each loan authorized pursuant to subsection (a) shall be repaid in payments payable at least annually for a period of not more than five years.

Sec. 3. (a) There is hereby created in the state treasury the local water project match fund. All moneys received from local government entities and instrumentalities to be used to match funds for water projects shall be deposited in the state treasury to the credit of the local water project match fund. The director of the Kansas water office shall remit all moneys so received to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and credit such amount to the local water project match fund.

(b) All moneys credited to this fund shall be used to match state funds for water projects using federal cost-share funds.

(c) All expenditures from the local water project match fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or by a person designated by the director.”;

By renumbering “Sec. 2.” as “Sec. 4.”;

On page 1, in the title, in line 10, after “fund” by inserting “; authorizing such office to obtain loans under certain prescribed conditions; establishing the local water project match fund”; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SCR 1609, SCR 1610 reported correctly engrossed March 20, 2003.

REPORT ON ENROLLED BILLS

SCR 1604 reported correctly enrolled, properly signed and presented to the Secretary of State on March 21, 2003.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Monday, March 24, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

