

# Journal of the House

## FOURTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, January 13, 2011, 11:00 a.m.

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

The roll was called with 121 members present.

Reps. Crum and Schwab were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
My prayer today is that these leaders will be  
leaders who are understanding;  
leaders who will encourage one another;  
leaders who will keep learning;  
leaders who will dare to blaze a new trail;  
leaders who recognize their authority is earned, not granted;  
leaders who can identify their gifts, strengths, and limitations;  
leaders who will listen and learn;  
leaders who have a servant's heart –  
just as You have modeled.  
In Jesus' Name, I pray.  
Amen.

The Pledge of Allegiance was led by Rep. Carlson.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2008**, AN ACT concerning crimes and punishment; relating to identity theft; amending Section 177 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing section, by Representative Kinzer.

**HB 2009**, AN ACT concerning crimes, criminal procedure and punishment; relating to home improvement fraud, by Representative Kinzer.

**HB 2010**, AN ACT concerning civil procedure; relating to covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2010 Supp. 60-4104 and repealing the existing section, by Representative Kinzer.

**MESSAGE FROM THE GOVERNOR**

December 28, 2010

*Message to the House of Representatives of the State of Kansas:*

Enclosed herewith is Executive Directive No. 10-418 for your information.

EXECUTIVE DIRECTIVE NO. 10-418  
Authorizing Expenditure of Federal FundsMARK PARKINSON  
*Governor*

The above Executive Directive is on file and open for inspection in the office of the Chief Clerk.

**COMMUNICATIONS FROM STATE OFFICERS**

From Jim Garner, Secretary, Kansas Department of Labor, Unemployment Insurance modernization Project, Progress Report, December 15, 2010.

From Tod M. Bunting, Major General, Kansas National Guard, The Adjutant General, Annual Report 2010.

From Debra Billingsley, Executive Secretary, Kansas Board of Pharmacy, pursuant to K.S.A. 65-4102(b), Report on Proposed Controlled Substances for Scheduling, Rescheduling or Deletion, January 10, 2011.

From Mark Parkinson, Governor, pursuant to K.S.A. 22-3703, reporting pardons granted for 2010 of Orvel Baldrige, John Manning and Frederick Johnson.

From Lucy Mills, Coordinator, Abuse, Neglect & Exploitation Unit, Office of Kansas Attorney General Steve Six, pursuant to K.S.A. 75-723, Annual Report to the legislature, July 1, 2009 to June 30, 2010. The report will be available at [www.ksag.org](http://www.ksag.org).

The complete reports are on file and open for inspection in the office of the Chief Clerk.

**REPORT OF STANDING COMMITTEE**Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that**Request No. 1**, by Representative Howell, congratulating Nettie Carpenter on her 100<sup>th</sup> birthday;**Request No. 2**, by Representative Pottorff, congratulating Clare Vanderpool, on winning the 2011 Newbery Award;**Request No. 3**, by Representative Carlin, congratulating Jamey Alan

White, on being awarded the Eagle Scout Award;

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. Siegfried, the committee report was adopted.

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 2011**, AN ACT concerning taxation; relating to tax credits for certain contributions to community colleges, technical colleges and postsecondary educational institutions; amending K.S.A. 2010 Supp. 79-32,261 and repealing the existing section, by Committee on Legislative Educational Planning Committee.

**HB 2012**, AN ACT concerning the legislative educational planning committee; relating to the powers and duties thereof; amending K.S.A. 2010 Supp. 46-1208a and repealing the existing section, by Committee on Legislative Educational Planning Committee.

**HB 2013**, AN ACT repealing K.S.A. 48-1901, 48-1902, 48-1903, 48-1904 and 48-1905; concerning the sale and purchase of certain firearms. , by Committee on Federal and State Affairs.

### HOUSE CONCURRENT RESOLUTION No. ~~HCR 5004~~—

By Committee on Federal and State Affairs

A PROPOSITION to amend section 5 of article 12 of the constitution of the state of Kansas, relating to cities' powers of home rule.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:*

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 5 of article 12 of the constitution of the state of Kansas is hereby amended to read as follows:

**"§ 5. Cities' powers of home rule.** (a) The

legislature shall provide by general law, applicable to all cities, for the incorporation of cities and the methods by which city boundaries may be altered, cities may be merged or consolidated and cities may be dissolved. ~~Provided, That~~ Existing laws on such subjects not applicable to all cities on the effective date of this amendment shall remain in effect until superseded by general law and such existing laws shall not be subject to charter ordinance.

(b) Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class. ~~Provided, That~~ The legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions. Cities shall exercise such determination by ordinance passed by the governing body with referendums only in such cases as prescribed by the legislature, subject only to enactments of the legislature of statewide concern applicable uniformly to all cities, to other enactments of the legislature applicable uniformly to all cities, to enactments of the legislature applicable uniformly to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge or other exaction and to enactments of the legislature prescribing limits of indebtedness. All enactments relating to cities now in effect or hereafter enacted and as later amended and until repealed shall govern cities except as cities shall exempt themselves by charter ordinances as herein provided for in subsection (c).

(c) (1) Any city may by charter ordinance elect in the manner prescribed in this section that the whole or any part of any enactment of the legislature applying to such city, other than enactments of statewide concern applicable uniformly to all cities, other enactments applicable uniformly to all cities, and enactments prescribing limits of indebtedness, shall not apply to such city.

(2) A charter ordinance is an ordinance which exempts a city from the whole or any part of any enactment of the legislature as referred to in this section and which may provide substitute and additional provisions on the same subject. Such charter ordinance shall be so titled, shall designate specifically the

enactment of the legislature or part thereof made inapplicable to such city by the adoption of such ordinance and contain the substitute and additional provisions, if any, and shall require a two-thirds vote of the members-elect of the governing body of such city. Every charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper or, if there is none, in a newspaper of general circulation in the city.

(3) No charter ordinance shall take effect until ~~sixty~~ 60 days after its final publication. If within ~~sixty~~ 60 days of its final publication a petition signed by a number of electors of the city equal to not less than ~~ten percent~~ 10% of the number of electors who voted at the last preceding regular city election shall be filed in the office of the clerk of such city demanding that such ordinance be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. An election, if called, shall be called within ~~thirty~~ 30 days and held within ~~ninety~~ 90 days after the filing of the petition. The governing body shall pass an ordinance calling the election and fixing the date, which ordinance shall be published once each week for three consecutive weeks in the official city newspaper or, if there be none, in a newspaper of general circulation in the city, and the election shall be conducted as elections for officers and by the officers handling such elections. The proposition shall be: "Shall charter ordinance No. \_\_\_\_\_, entitled (title of ordinance) take effect?" The governing body may submit any charter ordinance to a referendum without petition by the same publication of the charter ordinance and the same publication of the ordinance calling the election as for ordinances upon petition and such charter ordinance shall then become effective when approved by a majority of the electors voting thereon. Each charter ordinance becoming effective shall be recorded by the clerk in a book maintained for that purpose with a statement of the manner of adoption and a certified copy shall be filed with the secretary of state, who shall keep an index of the same.

(4) Each charter ordinance enacted shall control and prevail over any prior or subsequent act of the governing body of the city and may be repealed or amended only by charter ordinance or by enactments of the legislature applicable to all cities.

(5) A charter ordinance shall not be used to

alter or make changes in the form of city government of a city where such change has been approved by the electors of the city until the expiration of four years from the date of the election.

(d) Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government.

~~(e) This amendment shall be effective on and after July 1, 1961."~~

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

*"Explanatory statement.* The purpose of this amendment is to restrict a city in its ability to make changes in its form of government by enactment of a charter ordinance for a period of four years after electors of the city have approved a change in the form of government. Charter ordinances are subject to a petition and election procedure. The purpose of the amendment is to insure the will of the electorate in regard to the form of city government is not circumvented immediately by a governing body that does not like the change. The amendment also will save the drawing of a protest petition and the cost of a second election which is required to prevent a charter ordinance from going into effect.

"A vote for the proposition will provide assurance that the will of the electorate of a city that has chosen a different form of government will not be circumvented immediately by the passage of a charter ordinance and will save the extra effort and expense to hold a second election to prevent the charter ordinance from going into effect.

"A vote against the proposition will continue the current provisions which allow a governing body to adopt a charter ordinance at any time following a change in the form of city government approved by city electors."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in in the year 2012 unless a special election is called at a sooner date by concurrent resolution of the legislature,

in which case it shall be submitted to the electors of the state at the special election.

**COMMITTEE ASSIGNMENT CHANGE**

Speaker O'Neal announced the appointment of Rep. Flaharty as the Ranking Democrat to replace Rep. Henderson on the Committee on Aging and Long Term Care.

On motion of Rep. Siegfried, the House adjourned pro forma until 9:00 a.m., Friday, January 14, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*