

# Journal of the House

TWENTIETH DAY

---

HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, February 9, 2004, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.  
The roll was called with 124 members present.  
Rep. Owens was excused on verified illness.

Prayer by Chaplain Chamberlain:

God of providence and discovery, we raise our voices this day in thanksgiving for the great gift that you have given us — the gift of this state called Kansas. We praise you, O Lord, for spacious skies and amber waves of grain, for range lands and fruit groves. We thank you for the Native Americans who roamed and hunted on the prairies we call home. We thank you for the pioneers who settled the land and planted crops that would feed a nation. We thank you for adventurers and explorers who set out on journeys of discovery and who found the work of your hands.

We pray always that your kingdom would come on earth as it is in heaven. Here in Kansas, Lord, we can see a little bit of what you mean: we see it in the bounty and beauty of her landscape and in the character and compassion of her people. We're not done kingdom building yet Lord, so stir us up on this day to be about your work with all the vision, excitement and vigor that have made our home on the range the heart of our nation. Trusting in your divine providence, we place our hope in you alone. Amen.

The Pledge of Allegiance was led by Rep. Toelkes.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2767**, An act concerning open meetings; pertaining to penalties; amending K.S.A. 75-4320 and repealing the existing section, by Representatives Sawyer and Landwehr, Brunk, Carlin, Dahl, DeCastro, Dillmore, Goering, Goico, Hayzlett, Huebert, Huy, Klein, Lane, Loganbill, Mason, McCreary, McKinney, McLeland, Myers, Novascone, Ostmeyer, Pottorff, Powers, Ruff, Schwab, Tafarielli, Toelkes and Wilson.

**HB 2768**, An act concerning crimes and punishment; amending K.S.A. 2003 Supp. 21-3761 and repealing the existing section, by Representative Owens.

**HB 2769**, An act concerning workers compensation; relating to fees paid for prescription drugs; amending K.S.A. 2003 Supp. 44-510i and repealing the existing section, by Committee on Health and Human Services.

**HB 2770**, An act concerning the state board of healing arts; relating to the supervision of physician assistants; amending K.S.A. 39-1504, 65-468, 65-1728, 65-28,127, 65-28a10, 65-5001, 65-6119, 65-6120, 65-6123, 65-6124 and 72-5213 and K.S.A. 2003 Supp. 65-2891 and 65-5912 and repealing the existing sections, by Committee on Health and Human Services.

**HB 2771**, An act relating to drivers' licenses; concerning certain renewals; amending K.S.A. 2003 Supp. 8-240 and 8-247 and repealing the existing sections, by Committee on Transportation.

**HB 2772**, An act concerning public utilities; relating to the definition thereof, by Committee on Utilities.

**HB 2773**, An act concerning townships; providing for disorganization or consolidation by the board of county commissioners of townships with no residents or townships with no candidates for certain offices, by Committee on Local Government.

**HB 2774**, An act concerning townships; relating to fire districts; amending K.S.A. 80-1540, 80-1541 and 80-1542 and repealing the existing sections, by Committee on Local Government.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **HB 2748, HB 2749, HB 2750, HB 2752.**

Commerce and Labor: **HB 2757.**

Corrections and Juvenile Justice: **HB 2742, HB 2759, HB 2766.**

Federal and State Affairs: **HB 2751.**

Health and Human Services: **HB 2760, HB 2762, HB 2763.**

Higher Education: **HB 2755; HR 6022.**

Insurance: **HB 2761.**

Judiciary: **HB 2738, HB 2739, HB 2741, HB 2764.**

Local Government: **HB 2758.**

Taxation: **HB 2743, HB 2744, HB 2754, HB 2765.**

Tourism and Parks: **HB 2740.**

Transportation: **HB 2745, HB 2746, HB 2747.**

Utilities: **HB 2756.**

Select Committee on Pensions: **HB 2753.**

#### MESSAGE FROM THE SENATE

The Senate nonconcur in House amendments to **H. Sub. for Sub. SB 153**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **H. Sub. for Sub. SB 153.**

Speaker Mays thereupon appointed Reps. Holmes, Krehbiel and Svaty as conferees on the part of the House.

#### CONSENT CALENDAR

No objection was made to **HB 2248** appearing on the Consent Calendar for the first day.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 2606**, An act concerning elections; pertaining to the electronic filing of election abstracts; amending K.S.A. 25-3202 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison,

Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Owens.

The bill passed.

#### REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **HB 2347** be amended on page 2, in line 10, by striking "or" and inserting a comma; also in line 10, after "institution" by inserting ", or trust company";

On page 4, in line 10, by striking "or"; in line 11, after "(O)" by inserting "any other person, other than an individual, of institutional character with total assets in excess of \$10,000,000 not organized for the specific purpose of evading this act; or (P)";

Also on page 4, in line 43, by striking "or" and inserting a comma; also in line 43, after "institution" by inserting ", or trust company";

On page 5, in line 20, after "state" by inserting ", as that term is defined by rule adopted under section 203A of the investment advisers act of 1940 (15 U.S.C. section 80b-3a).";

On page 7, in line 32, after "fixed" by inserting "or variable";

On page 8, in line 1, by striking "includes as an"; also in line 1, by striking "among other contracts," and inserting "may include"; in line 2, by striking "an"; in line 3, by striking "investment in" and inserting "shall include"; also in line 3, by striking "settlement or similar agreement" and inserting "investment as defined by rule adopted or order issued under this act";

On page 14, in line 39, after "(20)" by inserting "an offer or sale of a security through a broker-dealer registered under this act to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this act;

(21)";

On page 15, in line 13, by striking "(21)" and inserting "(22)"; in line 29, by striking "(22)" and inserting "(23)";

On page 16, in line 11, after "9." by inserting "(a)"; after line 19, by inserting the following: "(b) Knowledge of order required. A person does not violate section 11, 13 through 16, 33 or 39, and amendments thereto, by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order.";

Also on page 16, in line 25, by striking all after "security" where it appears the second time; by striking all in line 26; in line 27, by striking all before the semicolon;

On page 18, in line 11, after "security" by inserting "that is required by rule adopted or order issued under this act"; in line 13, after "1933" by inserting "requested by the administrator";

On page 24, in line 26, by striking "A posteffective"; by striking all in lines 27 and 28; in line 29 by striking all before "If";

On page 26, in line 35, by striking "(I)" and inserting "(i)";

On page 33, in line 18, after "denied" by inserting "or the administrator has given written notice of deficiencies that are unresolved and that would constitute grounds for denial under section 29, and amendments thereto";

On page 39, in line 29, by striking "a maximum of \$10,000" and inserting "\$25,000"; also in line 29, after "violation" by inserting ". If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed \$15,000

for each such violation. The total penalty against a person shall not exceed \$1,000,000"; in line 32, by striking "not to exceed 15% per annum"; in line 33, after "violation" by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto";

On page 44, in line 20, after "to" by inserting "intentionally";

On page 45, in line 23, by striking "3" and inserting "4"; in line 24, by striking "\$1,000,000" and inserting "\$100,000"; in line 25 by striking all after "(B)"; by striking all in line 26; in line 27, by striking "(C)"; in line 29, by striking "(D)" and inserting "(C)"; also in line 29, by striking "6" and inserting "7"; in line 34, by striking "4" and inserting "5"; in line 35, by striking "\$1,000,000" and inserting "\$100,000"; in line 36, by striking all after "(B)"; by striking all in line 37; in line 38, by striking "(C)"; in line 40, by striking "(D)" and inserting "(C)"; after line 43 by inserting the following:

"(5) Any violation of section 11, 18 (a), 18 (c), 19 (a), 19 (d), 20 (a), 20 (c), 20 (d), 21 (a), 21 (e), 30 or 31, and amendments thereto, resulting in a loss of \$25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.;"

On page 46, in line 1, by striking "No" and inserting "Except as provided by subsection (9) of K.S.A. 21-3106, and amendments thereto, no prosecution for any crime under this act may be commenced more than 10 years after the alleged violation if the victim is the Kansas public employees retirement system and no"; also in line 1, after "any" by inserting "other"; in line 2, by striking the comma; by striking all in lines 3 and 4; in line 5, by striking all before the period; in line 26, after the period by inserting "If an attorney employed by the administrator acts as a special prosecutor, the administrator may pay extradition and witness expenses associated with the case.;"

On page 47, in line 1, by striking "at 15% per annum"; also in line 1, before the second comma by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 11, by striking "at 15% per annum"; in line 12, before the first comma by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 36, by striking "at 15% per annum"; in line 37, before the first comma by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto";

On page 48, in line 7, by striking "at 15% per annum"; in line 8, before the first comma by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 19, by striking "at 15% per annum"; in line 20, before the first comma by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto";

On page 49, in line 19, by striking "one year" and inserting "two years";

On page 50, in line 10, by striking "at 15% per annum"; in line 11, before the first comma by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 15, by striking "at 15% per annum"; also in line 15, after "purchase" by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 21, by striking "at 15%"; in line 22, by striking "per annum"; also in line 22, before the semicolon by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 27, by striking "at 15% per annum"; in line 28, before the semicolon by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 35, by striking "at 15% per annum"; in line 36, before the semicolon by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto"; in line 40, by striking "at 15% per annum"; in line 41, before the semicolon by inserting "at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto";

On page 52, in line 29, before the period by inserting "and for the education of registrants, including official hospitality"; in line 37, by striking "Five" and inserting "Two";

On page 54, in line 1, by striking "\$10,000" and inserting "\$25,000";

On page 55, in line 21, by striking "\$10,000 per" and inserting "25,000 for each"; also in line 21, before the semicolon by inserting ". If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise

provided by law, the court may impose an additional penalty not to exceed \$15,000 for each such violation. The total penalty against a person shall not exceed \$1,000,000”;

On page 56, in line 7, by striking “registrant” and inserting “person”; in line 9, by striking “a maximum of \$10,000” and inserting “\$25,000”; also in line 9, before the semicolon by inserting “. If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed \$15,000 for each such violation. The total penalty against a person shall not exceed \$1,000,000”; in line 14, by striking “not to exceed 15% per”; in line 15, by striking “annum”; also in line 15, before the semicolon by inserting “at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto”;

On page 61, in line 28, after “(e)” by inserting “*Publications, radio, television or electronic communications*. An offer to sell or to purchase is not made in this state when a publisher circulates or there is circulated on the publisher’s behalf in this state a bona fide newspaper or other publication of general, regular and paid circulation that is not published in this state, or that is published in this state but has had more than two-thirds of its circulation outside this state during the previous 12 months or when a radio or television program or other electronic communication originating outside this state is received in this state. A radio or television program, or other electronic communication is considered as having originated in this state if either the broadcast studio or the originating source of transmission is located in this state, unless:

(1) The program or communication is syndicated and distributed from outside this state for redistribution to the general public in this state;

(2) the program or communication is supplied by a radio, television or other electronic network with the electronic signal originating from outside this state for redistribution to the general public in this state;

(3) the program or communication is an electronic communication that originates outside this state and is captured for redistribution to the general public in this state by a community antenna or cable, radio, cable television or other electronic system; or

(4) the program or communication consists of an electronic communication that originates in this state, but which is not intended for distribution to the general public in this state.

(f”;

On page 71, in line 29, by striking “2002” and inserting “2003”;

On page 72, in line 18, by striking “2002” and inserting “2003”;

On page 74, in line 6, by striking “2002” and inserting “2003”;

On page 75, in line 12, by striking “2002” and inserting “2003”;

On page 77, by striking all in lines 38 through 41;

By striking all on pages 78 through 81;

And by renumbering sections accordingly;

On page 85, in line 31, by striking “2002” and inserting “2003”;

On page 87, in line 3, by striking “2002” and inserting “2003”; in line 4, after “17-1263,” by inserting “17-1264, 17-1264a, 17-1265, 17-1265a,”; in line 5, by striking “, 21-4704”; in line 8, by striking “2004” and inserting “2005”;

On page 1, in the title, in line 11, by striking “2002” and inserting “2003”; also in line 11, by striking the last comma; in line 12, by striking “21-4704”; in line 13, by striking “17-1264, 17-1265,”; in line 14, by striking “2002” and inserting “2003”; in line 16, after “17-1263,” by inserting “17-1264, 17-1264a, 17-1265, 17-1265a,”; 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 bill was thereupon introduced and read by title:

**HB 2775**, An act concerning real estate; relating to disclosure of a material fact; amending K.S.A. 2003 Supp. 58-30,106 and 58-30,113 and repealing the existing sections, by Representative McCreary.

FEBRUARY 9, 2004

1041

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Tuesday, February 10, 2004.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

