

Journal of the House

FIFTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, May 1, 2012, 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.

Rep. LeDoux was excused on verified illness.

Rep. Arpke, Peterson and Weber were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Richard Sundermeyer, pastor, Family Life Church of the Nazarene, Topeka:

Almighty God, we come before you today acknowledging the awesome responsibility we have as duly elected representatives of the people of Kansas. This responsibility demands many things of us especially as we address specific pieces of legislation for a final time this year.

While there are may be a variety of outside interests attempting to sway our opinions and decisions, we recognize that without Your insight and wisdom we are unable to see things clearly.

We seek Your presence in this place today in order to move beyond anything that would attempt to divide us as a body and as a state.

We ask for Your insight into these difficult issues facing us so that the only actions passed by this body will provide for the betterment of this state and its citizens.

We request Your divine wisdom to help us to address these important issues with clarity of thought, soundness of mind, pursuit of justice, and righteousness for all.

We confess our need for and dependence on You this day.

We thank You and praise Your name.

We pray for Representative LeDoux as he is having surgery this morning. We pray for healing.

In Jesus name I pray these things, Amen

The Pledge of Allegiance was led by Rep. Seiwert.

MESSAGE FROM THE GOVERNOR

April 27, 2012

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

Enclosed herewith is Executive Directive No. 12-429 for your information.

EXECUTIVE DIRECTIVE No. 12-429
Authorizing Expenditure of Federal Funds

SAM BROWNBACK
Governor

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

MESSAGE FROM THE GOVERNOR

April 27, 2012

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

Enclosed herewith is Executive Order No. 12-06 for your information.

EXECUTIVE ORDER No. 12-06 for Regional Emergencies
Concerning Conditional and Temporary Relief
from Motor Carrier Rules and Regulations

SAM BROWNBACK
Governor

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

MESSAGES FROM THE SENATE

Announcing passage of **SB 434**.

Announcing passage of **HB 2777**.

Announcing passage of **HB 2572**, as amended.

Also, the President announced the appointment of Senators Schodorf and Hensley as members of the conference committee on **SB 258** to replace Senators McGinn and Kelly.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bill was introduced and read by title:

SB 434.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Siegfroid, 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 **S Sub for HB 2454; HB 2655.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Senate Substitute for HB 2454** 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 as Senate Substitute for House Bill No. 2454, as follows:

On page 2, in line 4, by striking "13" and inserting "11"; in line 13, by striking "four" and inserting "and five"; also in line 13, by striking "; one"; by striking all in lines 14 and 15; in line 16, by striking "appointed by the Kansas humanities council"; in line 18, by striking "two" and inserting "three"; in line 35, by striking "Seven" and inserting "Six";

On page 5, in line 15, after "staff" by inserting "consisting of a director"; in line 17, striking all after the period; in line 18, by striking before the second "The";

On page 6, in line 36, by striking "executive";

On page 10, in line 31, by striking "executive";

On page 12, in line 43, by striking "executive";

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

TERRIE HUNTINGTON

JEAN SCHODORF

LAURA KELLY

Conferees on part of Senate

LANA GORDON

MARVIN KLEEB

VALDENIA C. WINN

Conferees on part of House

On motion of Rep. Gordon, the conference committee report on **S Sub for HB 2454** was adopted.

On roll call, the vote was: Yeas 101; Nays 20; Present but not voting: 0; Absent or not voting: 4.

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

Nays: Brown, Collins, Donohoe, Garber, S. Gatewood, Grosserode, Hildabrand, Huebert, Kiegerl, Kinzer, Landwehr, McLeland, Montgomery, O'Hara, Peck, Scapa, Schwab, Smith, Suellentrop, Tyson.

Present but not voting: None.

Absent or not voting: Arpke, LeDoux, Peterson, Weber.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2655** 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 as Amended by Senate Committee, as follows:

On page 1, by striking all in lines 6 through 34;

By striking all on page 2;

On page 3, by striking all in lines 1 and 2 and by inserting:

"Section 1. K.S.A. 2011 Supp. 58a-411 is hereby amended to read as follows: 58a-411. (a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all qualified beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an attorney in fact under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed. This subsection does not apply to irrevocable trusts created before, or to revocable trusts that became irrevocable before, January 1, 2003.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the qualified beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the qualified beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the qualified beneficiaries.

(e) If not all of the qualified beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

(1) If all of the qualified beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a qualified beneficiary who does not consent will be adequately protected.

Sec. 2. K.S.A. 58a-1013 is hereby amended to read as follows: 58a-1013. (a) Instead of furnishing a copy of the trust instrument to a person other than a qualified beneficiary, the trustee may furnish to the person an acknowledged certification of trust containing the following information:

(1) That the trust exists and the date the trust instrument was executed;

(2) the identity of the settlor;

(3) the identity and address of the currently acting trustee;

- (4) the powers of the trustee;
- (5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;
- (6) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; and
- ~~(7) the trust's taxpayer identification number; and~~
- ~~(8)(7)~~ the manner of taking title to trust property.
- (b) A certification of trust may be signed or otherwise authenticated by any trustee.
- (c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.
- (d) A certification of trust need not contain the dispositive terms of a trust.
- (e) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.
- (f) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.
- (g) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.
- (h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.
- (i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.";

Also on page 3, in line 3, before "K.S.A." by inserting "K.S.A. 58a-1013 and"; also in line 3, by striking "21-5905 is" and inserting "58a-411 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking "judicial process" and inserting "the uniform trust code; relating to modification or termination of noncharitable irrevocable trusts; certification of trusts"; also in line 2, after "amending" by inserting "K.S.A. 58a-1013 and"; also in line 2, by striking "21-5905" and inserting "58a-411"; in line 3, by striking "section" and inserting "sections";

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

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

LANCE KINZER

JOE PATTON

JANICE L. PAULS

Conferees on part of House

On motion of Rep. Kinzer, the conference committee report on **HB 2655** was adopted.

On roll call, the vote was: Yeas 117; Nays 3; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, 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, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Phillips, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Burgess, Knox, Smith.

Present but not voting: None.

Absent or not voting: Arpke, Hill, LeDoux, Peterson, Weber.

REPORTS OF STANDING COMMITTEES

The Committee on **Financial Institutions** recommends **HB 2793** be amended on page 1, in line 9, by striking "person" and inserting "individual"; in line 10, by striking "person's" and inserting "individual's"; in line 11, by striking "person's" and inserting "individual's"; and the bill be passed as amended.

On motion of Rep. Siegfried, the House recessed until 5:00 p.m.

EVENING SESSION

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

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2768** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2768," as follows:

"Substitute for HOUSE BILL NO. 2768

By Committee on Appropriations

"AN ACT making and concerning appropriations for fiscal years ending June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, for state agencies; authorizing and directing payment of certain claims against the state; authorizing certain transfers, capital improvement projects and fees imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2011 Supp. 2-223, 12-5256, 55-193,

72-8814, 74-50,107, 74-99b34, 75-2319, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections."; and the substitute bill be passed.

(Sub **HB 2768** was thereupon introduced and read by title.)

REPORT ON ENGROSSED BILLS/RESOLUTIONS

HB 2631 reported correctly re-engrossed April 30, 2012.

REPORT ON ENROLLED RESOLUTIONS

HR 6028, HR 6030 reported correctly enrolled and properly signed on May 1, 2012.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Wednesday, May 2, 2012.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

