

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on March 10, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Dale Swenson - Excused
Representative Dan Williams - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

David Brant, Kansas Securities Commissioner
Rick Fleming, General Counsel, Kansas Security Commission

Hearing on **SB 110 - criminal & civil penalties for unlawful acts relating to securities**, were opened.

David Brant, Kansas Securities Commissioner, explained that the proposed bill would create graduated penalties for certain existing crimes depending on the dollar amount:

- \$1,000,000 or more would move from a severity level 6 nonperson felony to a severity level 3 nonperson felony
- \$100,000 but less than \$1,000,000 would be a severity level 4 nonperson felony
- \$25,000 to \$100,000 would be a severity level 5 nonperson felony
- and for loss less than \$25,000 would be a severity level 6 nonperson felony

The bill would also create a new severity level 8 nonperson felony which would be for those who alter, destroy, shred, conceal, cover up or falsify any record with the intent to impede an investigation. (Attachment 1)

Barbara Tombs, Executive Director Kansas Sentencing Commission, provided the committee with a bed space impact for **SB 110** (Attachment 2). She estimated that the proposed bill would increase admissions by four and four additional beds by the year 2004 and will increase to five offenders per year with an increase in 13 additional bed space by 2013.

The Sentencing Commission was concerned with the severity level three, nonperson felony provisions. A severity level three is reserved to those crimes such as: aggravated robbery, kidnaping and voluntary manslaughter. Another concern is with the pattern beginning to evolve with the placement of nonperson felony classification on a severity level, which till last year was purely person felonies.

The final concern is with the modifications to the special sentencing rules relating to boarder boxes. Special sentencing rules were developed to provide discretion to judges whether the circumstances of the offense warranted imprisonment when the offender has no or limited criminal history. Modifications to special sentencing rules relating to boarder boxes do not represent sound sentencing policy.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on March 10, 2003 in Room 313-S of the Capitol.

Rick Fleming, General Counsel, Kansas Security Commission, pointed out that there is “no treatment programs” for those who commit securities fraud. He suggested that increasing the severity levels would only result in one or two beds per year.

The hearing on **SB 110** was closed.

The committee discussed whether or not they wanted to take up the issue of variable annuities in **HB 2347 - Kansas Uniform Securities Act**, on a vote 7-6 the committee started discussion on the bill.

Committee discussion centered on the fact that during the hearings the only thing conferees testified on was the issue of variable annuities and were not sure what was in the remainder of the bill. Many suggested that the Kansas Bar Association and the Legislature should take more time to study the issue. It was announced that the Commissioner’s on Insurance were taking up the issue of dual regulations and variable annuities at their spring meeting and would be able to report back what is happening across the United State.

Representative Patterson made the motion to table the bill. Representative Owens seconded the motion. The Chairman determined that the motion was debatable. Some members wanted to continue to work the bill, while others requested that the Chairman direct the Speaker to have an interim study on the issue. The motion carried.

Representative Long made the motion to approve the committee minutes from February 10, 11, 12 & 13. Representative Owens seconded the motion. The motion carried.

The committee meeting adjourned at 4:45 p.m. The next meeting was scheduled for Tuesday, March 11, 2003 at 3:30 p.m. in room 313-S.