

Approved: _____
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 18, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Feleciano, Gooch, Harris, Jordan, Ranson, Steffes, Steineger and Umbarger.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Thomas A. Page, Director, Kansas Development Finance Authority (KDFA)

Others attending: See attached list

Upon motion by Senator Gooch, seconded by Senator Barone, the Minutes of the February 14, 1997 Meeting were unanimously approved.

SB 152, Modification of the high performance incentive program

The Chair asked the Committee to refer to action taken on **SB 152** as reported in the Minutes of February 14, stating the Minutes accurately reflect the action taken by the Committee. The staff, after conversations with agency personnel, found the amendments circulated to the Committee inadvertently left out two subsections. The inclusion of the subsections, which are included in **SB 152** in the Bill Book, do not alter the intent of the Committee. The Chair stated she intended to offer a floor amendment.

Confirmation hearing on Thomas A. Page, Director, Kansas Development Finance Authority, appointment expires January 15, 2001.

Thomas A. Page, testified he graduated from the United States Air Force Academy with a B.S. in Economics, received a BMA from the University of Missouri, and took a course of study at Stonier Graduate School of Banking at Rutgers University. Mr. Page resigned his commission in the Air Force in 1980 and commenced his career in banking. Mr. Page is currently President and Chief Executive Officer of Emprise Bank, Wichita. Attachment 1

Mr. Page testified it is his belief the KDFA is: 1) a technical resource, the placement of debt for state agencies; and 2) a conduit for assistance to local governments for preferred rates to allow projects in the areas of economic development and housing to go forward. Mr. Page stated he believes he can bring some insight into the underwriting and placement of debt for the various projects and is most cognizant of the role of private business versus government.

The hearing was concluded and Mr. Page excused.

SB 151 - Regulation of telephone solicitors

Lynn Holt, Legislative Research, compared the balloon prepared by the Revisor, (amendments adopted by the Committee, Attachment 2) with the balloon prepared by the Attorney General. Attachment 3.

The Committee discussed the proposed new Sections 2 and 3 of the Attorney General's balloon which establishes a "special consumer education fund". The committee discussed the fiscal impact on the state general fund, and the practice of the Attorney General to ask violators to make contributions to a charitable institution of the General's choice when making settlements.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on February 18, 1997.

Senator Ranson moved, seconded by Senator Feleciano that **SB 151 be further amended** on Page 2, Line 8, by inserting a new subsection to read as follows: "(5) 'negative response' means a statement from a consumer indicating the consumer does not wish to listen to the sale presentation or participate in the solicitation presented in the consumer telephone call". The voice vote was in favor of the motion.

Senator Brownlee moved, seconded by Senator Steineger that **SB 151 be further amended** on Page 2, Line 33, subsection (c), to provide for the protection of caller ID if the technical language can be worked out. The voice vote endorsed the concept moved Senator Brownlee.

Senator Ranson moved, seconded by Senator Brownlee, that **SB 151 be recommended favorable for passage as amended**. The recorded vote was Yes - 9; No - 2. The motion carried.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for February 19, 1997.

**STATEMENT TO THE KANSAS
SENATE COMMERCE COMMITTEE
February 18, 1997**

Madam Chairman, members of the committee, my name is Tom Page and I am here to seek your consent to the Governor's appointment of me as Vice Chairman and Director of the Kansas Development Finance Authority. I would like to share with you some background information about myself and my career.


I was born and raised in a small town in North Dakota, and graduated from high school there in 1971. From 1971 to 1975, I attended the United States Air Force Academy and graduated with a Bachelor of Science degree in Economics. I received a Master of Business Administration from the University of Missouri in 1978. From 1982 to 1984, I completed the course of study of the Stonier Graduate School of Banking at Rutgers University.

Immediately following graduation from the academy, I served for five years as a launch control officer for the Minuteman ICBM wing at Whiteman AFB, Missouri. I resigned my commission in 1980 as a captain, and moved to Kansas to begin my banking career. My first banking job was as a management trainee at the Citizen's National Bank of Emporia. Over the next two years, I held a variety of positions within the bank, ultimately becoming Vice President and Assistant to the President. In 1982, I began a twelve year career with Fourth Financial Corporation. During these years, I held a wide range of positions which included Manager-Correspondent Banking, President-Bank IV Garden City and, finally, President-Community Banking Division for Bank IV Kansas. In August of 1994, I assumed my current position as President and Chief Executive Officer of Emprise Bank, Wichita.

On a personal note, I am married to Mindy Hughes, a native Kansan. We live in Andover, where my son Rhys, 16, and my daughter Emily, 12, attend school. In addition to my banking career, I operate a farm near Benton.

I am appreciative of the confidence the Governor has shown in me through this appointment. It is my hope and belief that my familiarity with banking and finance, as well as the issues of economic development and housing, can be utilized to the benefit of the Authority and Kansas.

Thank you for your consideration.


Thomas A. Page

*Senate Commerce Committee
February 18, 1997*

Attachment 1

SENATE BILL No. 151

By Committee on Commerce

1-30

9 AN ACT concerning consumer protection; relating to telephone solici-
10 tation; amending K.S.A. 50-670 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 50-670 is hereby amended to read as follows: 50-
14 670. (a) As used in this section:

15 (1) "Consumer telephone call" means a call made by a telephone
16 solicitor *to the residence of a consumer* for the purpose of soliciting a sale
17 of any ~~consumer goods property~~ or services to the person called, or for
18 the purpose of soliciting an extension of credit for ~~consumer goods prop-~~
19 ~~erty~~ or services to the person called, or for the purpose of obtaining
20 information that will or may be used for the direct solicitation of a sale
21 of ~~consumer goods property~~ or services to the person called or an exten-
22 sion of credit for such purposes;

23 (2) "~~consumer goods or services~~" means any tangible personal prop-
24 erty which is normally used for personal, family or household purposes,
25 including, without limitation, any such property intended to be attached
26 to or installed in any real property without regard to whether it is so
27 attached or installed, as well as cemetery lots and time-share estates, and
28 any services related to such property;

29 (3) (2) "unsolicited consumer telephone call" means a consumer tel-
30 ephone call other than a call made:

31 (A) In response to an express request of the person called;

32 (B) primarily in connection with an existing debt or contract, payment
33 or performance of which has not been completed at the time of such call;
34 or

35 (C) to any person with whom the telephone solicitor has an existing
36 business relationship; or

37 (D) ~~(C)~~ by a newspaper publisher or such publisher's agent or em-
38 ployee in connection with such publisher's business;

39 (4) (3) "telephone solicitor" means any natural person, firm, organi-
40 zation, partnership, association or corporation who makes or causes to be
41 made a consumer telephone call, including, but not limited to, calls made
42 by use of automatic dialing-announcing device;

43 (5) (4) "automatic dialing-announcing device" means any user con-

(C) to any person with whom the telephone solicitor has an existing business relationship; or

(D)

*Senate Commerce Committee
February 18, 1997
Attachment 2-1 thru 2-2*

2-2

1 minal equipment which:

2 (A) When connected to a telephone line can dial, with or without
3 manual assistance, telephone numbers which have been stored or pro-
4 grammed in the device or are produced or selected by a random or se-
5 quential number generator; or

6 (B) when connected to a telephone line can disseminate a recorded
7 message to the telephone number called, either with or without manual
8 assistance.

9 (b) Any telephone solicitor who makes an unsolicited consumer tel-
10 ephone call to a residential telephone number shall:

11 (1) Identify themselves and the business on whose behalf such person
12 is soliciting and the purpose of the call immediately upon making contact
13 by telephone with the person who is the object of the telephone solici-
14 tation;

15 (2) within 30 seconds after beginning the conversation, inquire
16 whether the person being solicited is interested in listening to a sales
17 presentation and immediately discontinue the solicitation if the person
18 being solicited gives a negative response; and

19 (1) Identify themselves;

20 (2) identify the business on whose behalf such person is soliciting;

21 (3) identify the purpose of the call immediately upon making contact
22 by telephone with the person who is the object of the telephone solicitation;

23 ~~(4) within 30 seconds after beginning the conversation, inquire
24 whether the person being solicited is interested in listening to a sales
25 presentation.~~

(4)

26 ~~(5) immediately discontinue the solicitation if the person being solici-
27 tated gives a negative response at any time during the consumer telephone
28 call; and~~

(5)

29 (3) ~~(6)~~ hang up the phone, or in the case of an automatic dialing-
30 announcing device operator, disconnect the automatic dialing-announc-
31 ing device from the telephone line within 25 seconds of the termination
32 of the call by the person being called.

33 ~~(c) A telephone solicitor shall not be able to withhold the display of
34 the telephone solicitor's business telephone number from a caller identi-
35 fication service when that number is being used for telemarketing pur-
36 poses.~~

(c) Telecommunications carriers and local exchange carriers

37 ~~(e) (d) Telephone companies shall not be responsible for the enforce-
38 ment of the provisions of this section, and shall not be liable for any error
39 or omission in the listings made pursuant hereto.~~

(d)

40 ~~(d) (e) Any violation of this section is an unconscionable act or prac-
41 tice under the Kansas consumer protection act.~~

(e)

42 (e) ~~(f)~~ This section shall be part of and supplemental to the Kansas



SENATE BILL No. 151

By Committee on Commerce

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25 ~~including, without limitation, any such property intended to be attached~~
26 ~~to or installed in any real property without regard to whether it is so~~
27 ~~attached or installed, as well as cemetery lots and time-share estates; and~~
28 ~~any services related to such property;~~

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30 ~~ephone call other than a call made:~~

31 (A) In response to an express request of the person called;

32 (B) primarily in connection with an existing debt or contract, payment
33 or performance of which has not been completed at the time of such call;
34 or

35 ~~(C) to any person with whom the telephone solicitor has an existing~~
36 ~~business relationship; or~~

37 ~~(D) (C) by a newspaper publisher or such publisher's agent or em-~~
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39 (4) (3) "telephone solicitor" means any natural person, firm, organi-
40 zation, partnership, association or corporation who makes or causes to be
41 made a consumer telephone call, including, but not limited to, calls made
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(D)

*Senate Commerce Committee
February 18, 1997
Attachment B-1 thru B-4*

Bd

1 minal equipment which:

2 (A) When connected to a telephone line can dial, with or without
3 manual assistance, telephone numbers which have been stored or pro-
4 grammed in the device or are produced or selected by a random or se-
5 quential number generator; or,

6 (B) when connected to a telephone line can disseminate a recorded
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11 (1) Identify themselves and the business on whose behalf such person
12 is soliciting and the purpose of the call immediately upon making contact
13 by telephone with the person who is the object of the telephone solici-
14 tation;

15 (2) within 30 seconds after beginning the conversation, inquire
16 whether the person being solicited is interested in listening to a sales
17 presentation and immediately discontinue the solicitation if the person
18 being solicited gives a negative response; and

19 (1) Identify themselves;

20 (2) identify the business on whose behalf such person is soliciting;

21 (3) identify the purpose of the call immediately upon making contact
22 by telephone with the person who is the object of the telephone solicitation;

23 (4) within 30 seconds after beginning the conversation, inquire
24 whether the person being solicited is interested in listening to a sales
25 presentation;

26 (5) immediately discontinue the solicitation if the person being solici-
27 tated gives a negative response at any time during the consumer telephone
28 call; and

29 (3) (6) hang up the phone, or in the case of an automatic dialing-
30 announcing device operator, disconnect the automatic dialing-announc-
31 ing device from the telephone line within 25 seconds of the termination
32 of the call by the person being called.

33 (c) A telephone solicitor shall not be able to withhold the display of
34 the telephone solicitor's business telephone number from a caller identi-
35 fication service when that number is being used for telemarketing pur-
36 poses.

37 (e) (d) Telephone companies shall not be responsible for the enforce-
38 ment of the provisions of this section and shall not be liable for any error
39 or omission in the listings made pursuant hereto.

40 (d) (e) Any violation of this section is an unconscionable act or prac-
41 tice under the Kansas consumer protection act.

42 (e) (f) This section shall be part of and supplemental to the Kansas
43 consumer protection act.

(5) "negative response" means a statement from a consumer indicating the consumer does not wish to listen to the sales presentation or participate in the solicitation presented in the consumer telephone call.

(3) and inquire whether the person being solicited is interested in listening to a sales presentation;

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(4)

(c) A telephone solicitor shall not be able to withhold the display of the telephone solicitor's business telephone number from a caller identification service when that number is being used for telemarketing purposes.

(e)(c) Telephone companies Local exchange carriers or telecommunications carriers shall not be responsible for the enforcement of the provisions of this section and shall not be liable for any error or omission in the listings made pursuant hereto.

(d) It shall not be a violation of this section if the telephone solicitor can demonstrate: (1) it intended to call a business entity and not the resident of a consumer; and (2) upon determining the call was not made to a business entity, the call was either terminated or made in compliance with this section.

2-2

Section 2. K.S.A. 50-636 is hereby amended to read as follows: K.S.A. 50-636. (a) The commission of any act or practice declared to be a violation of this act shall render the violator liable to the aggrieved consumer, or the state or a county as provided in subsection (c), for the payment of a civil penalty, recoverable in an individual action, including an action brought by the attorney general or county attorney or district attorney, in a sum set by the court of not more than \$5,000 for each violation. An aggrieved consumer is not a required party in actions brought by the attorney general or a county or district attorney pursuant to this section.

(b) Any supplier who willfully violates the terms of any court order issued pursuant to this act shall forfeit and pay a civil penalty of not more than \$10,000 per violation, in addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper. For the purposes of this section, the district court issuing an order shall retain jurisdiction, and in such cases, the attorney general, acting in the name of the state, or the appropriate county attorney or district attorney may petition for recovery of civil penalties.

(c) In administering and pursuing actions under this act, the attorney general and the county attorney or district attorney are authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the attorney general shall be paid into ~~the~~ *a special fund hereby created in the state treasury to be known as the consumer education fund* ~~the general fund of the state~~. Civil penalties and contempt penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings are instigated.

(d) Any act or practice declared to be a violation of this act not identified to be in connection with a specific identifiable consumer transaction but which is continuing in nature shall be deemed a separate violation each day such act or practice exists.

New Section 3. (a) Except as otherwise provided by law, any moneys in the consumer education fund shall be disbursed by the director of accounts and reports in the manner provided by law, upon order of the attorney general, for the payment of any expense incurred by the attorney general in providing consumer education. Such expenses shall include, but not be limited to, travel expenses, public service announcements, costs of producing consumer brochures and presentations, equipment to facilitate consumer education presentations, or any other expense reasonably related to providing consumer education to consumers and suppliers.

1 ~~Sec. 2. K.S.A. 50-670 is hereby repealed.~~ ~~Sec. 4. K.S.A. 50-670 and K.S.A. 50-636 are hereby repealed.~~
2 ~~Sec. 3. This act shall take effect and be in force from and after its~~ ~~Sec. 5.~~
3 ~~publication in the statute book.~~

34