

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on January 31, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donavon, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Marilyn Harp, Executive Director of Kansas Legal Services
John Hooge, Attorney, Lawrence, Kansas
Jill Michaux, Attorney, Topeka, Kansas
Paul Post, Attorney, Topeka, Kansas
Judge Phillip B. Journey, Haysville, Kansas
Ed Klumpp, Ks Assn. Chiefs of Police, Ks Sheriffs Assn., Ks Peace Officers Assn.

Others attending:

See attached list.

Bill Introductions:

Stephanie Mickelsen, office of the secretary of state, requested introduction of a bill relating to business entities; resident agents; articles of incorporation and certificates of good standing.

The Chairman opened the hearings on **SB 12 — Bankruptcy proceedings; earned income tax credit.**

Senator Vratil, sponsor of the bill, testified in support of **SB 12 (Attachment 1)**. Senator Vratil stated that the bill would protect the earned income tax credit by exempting it from a bankruptcy proceeding. The bill exemption would not limit rights of offset, attachment or other process for payment of child support or spousal maintenance.

Marilyn Harp testified in support of **SB 12 (Attachment 2)**. She noted that without the exemption, the federal income support (money) derived under the credit is paid to the creditor of the low-income person who files bankruptcy.

John Hooge testified in support of **SB 12 (Attachment 3)**. He stated that the purpose of exemptions in bankruptcy is to allow a person to have a fresh start, but not lose everything.

Jill Michaux testified in support of **SB 12 (Attachment 4)**. She stated that the Kansas general bankruptcy exemption is not broad enough to exempt the earned income tax credit.

Paul Post testified in support of **SB 12 (Attachment 5)**. He stated that the amount of the money derived from the credit, which must be turned over the bankruptcy trustee, varies depending upon when the bankruptcy is filed. He added that the trustee has the discretion to decline to accept a refund or the credit.

The Chairman called the committee's attention to the fiscal note for **SB 12**.

The Chairman closed the hearings on **SB 12**.

The Chairman opened the hearings on **SB 34 — Driver's license; habitual violators; motorized bicycles.**

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on January 31, 2011, in Room 548-S of the Capitol.

Jason Thompson, Staff Revisor, reviewed the bill.

Judge Phillip B. Journey testified in support of **SB 34** (Attachment 6). He stated that if a person's driver's license has been suspended, that person could obtain a license to operate a moped. He noted that SB 34 is similar to legislation he had requested in previous sessions.

Senator Bruce stated that he does not believe that a moped is a motor vehicle, and therefore, current law does not prevent a person whose license to operate a motor vehicle has been revoked from obtaining a license to operate a moped.

Ed Klumpp testified in opposition to **SB 34** (Attachment 8). He noted that under current law a person whose driver's license has been suspended due to a DUI conviction cannot obtain a license to operate a moped, but if the bill is enacted, a person whose driver's license has been revoked as a habitual violator due to three DUI convictions could obtain a license to operate a moped. He asked that the bill be clarified so that a person who obtains a license under the bill remains a habitual violator for the purpose of operating other motor vehicles.

The Chairman called the committee's attention to the prison bed impact statement and the fiscal note for **SB 34**.

The Chairman closed the hearings on **SB 34**.

The Chairman opened the hearings on **SB 37 — Sentencing; payment of fines; employment of county and city prisoners**.

Judge Phillip B. Journey testified in support of **SB 37** (Attachment 8). He stated that the bill would allow city and county prisoners or offenders to perform community service in lieu of paying court-assessed fines and costs; a credit of \$5 for each full hour of community service performed would be applied to the fines and costs that have been assessed against the prisoners. He also stated that the court could impose a sentence of community service in lieu of fines and costs.

No testimony in opposition to **SB 37** was offered.

The Chairman called the committee's attention to the fiscal note for **SB 37**.

The Chairman closed the hearings on **SB 37**.

The Chairman called the committee's attention to the fiscal note for **SB 7 — Driving under the influence**.

Meeting adjourned at 10:25 A.M. The next meeting is scheduled for February 1, 2011*.

*Meeting scheduled for February 1, 2011 subsequently was canceled.