

Approved: August 25, 2011  
(Date)

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

Chairman Tim Owens called the meeting to order at 9:38 A.M. on February 17, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, 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:

Donn Teske, Kansas Farmers Union, President  
Stephanie Mickelsen, Deputy Secretary State, Business Services  
Kevin Roberts, Kansas Dental Association  
Randy Downing, Vice President of Government Affairs, Dr. Pepper/Snapple

Others attending:

See attached list.

The Chairman opened the hearings **SB 106 -- Consumer protection act.**

Jason Thompson, Staff Revisor, reviewed the bill.

Donn Teske testified in opposition to **SB 106 (Attachment 1)**. He stated he is concerned that agriculture would be excluded the protections of the KCPA. In addition, the bill would completely neutralize the KCPA for those consumers remaining under the KCPA.

Written testimony in support of **SB 106** was submitted by: Christopher E. Appel, Washington D.C. (Attachment 2) and P.D. Villarreal, GlaxoSmithKline (Attachment 3).

Written testimony in opposition to **SB 106** was submitted by: Anna Lambertson, Kansas Health Consumer Coalition (Attachment 4), Jim Welch, Office of Attorney General (Attachment 5) and Sharon Werner (Attachment 6).

The Chairman called the committee's attention to the fiscal note for **SB 106**.

The Chairman closed the hearings on **SB 106**.

The Chairman opened the hearings on **SB 96 -- Business entities; resident agents; articles of incorporation and certificates of good standing.**

Jason Thompson, Staff Revisor, reviewed the bill.

Stephanie Mickelsen testified in support of **SB 96 (Attachment 7)**. She stated that the bill would:

- Require a foreign entity to state, on their application, that they are in good standing in their home state (as of the date of application) in lieu filing a certificate of good standing
- Add a statement to the resident agent formation document of a corporation, LLC, LP, LLP that the entity notified the resident agent of his appointment and that the resident agent accepted the appointment
- Allow an LLC, LP, and LLP to reinstate its articles of incorporation after forfeiture due to a loss of the entity's resident agent by filing a certificate of reinstatement and paying any fees and penalties due to the Secretary of State

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Ms. Mickelsen requested the committee to amend the bill to delay the effective date until July 1, 2012.

In response to Senator Vratil's question relating to verifying whether or not a foreign corporation is in good standing, Ms. Mickelsen stated the office would not be doing such verification.

The Chairman called the committee's attention to the fiscal note for **SB 96**.

The Chairman closed the hearings on **SB 96**.

The Chairman opened the hearings **SB 104 -- Kansas tort claims act; charitable health care providers**.

Jason Thompson, Staff Revisor, reviewed the bill.

Kevin Roberts testified in support of **SB 104 (Attachment 8)**. He stated the bill would amend the definition of the "charitable health care provider" contained in the Kansas Tort Claims Act. In regard to a charitable health provider who provides dentistry services and dental hygienist services, the bill would delete references to specific Kansas Administrative Regulations, which have been repealed, and insert the more general reference to "rules and regulations adopted by the Kansas Dental Board."

Senator Bruce asked, "Why are those services defined by rules and regulations and not by statute?"

Mr. Roberts stated, "It provides flexibility as the practice of dentistry changes."

Senator Vratil added, "It is more prudent that the Kansas Dental Board define "dentistry services" and "dental hygienist services" than it is for the Legislature to do so."

The Chairman called the committee's attention to the fiscal note for **SB 104**.

The Chairman closed the hearings on **SB 104**.

The Chairman opened the hearings on **SB 164 -- Plastic bulk merchandise containers; sales, records; civil penalties**.

Jason Thompson, Staff Revisor, reviewed the bill.

Randy Downing testified in support of **SB 164 (Attachment 9)**. He stated that the bill would impose certain requirements relating to the sale of plastic bulk merchandise containers and the records that must be kept in relation thereto. The bill provides for a civil penalty up to \$10,000 for each violation. The bill is patterned after laws in Texas, California and Maryland.

Senator Owens asked whether retailers or the plastic container distributors are taking steps to protect themselves.

Senator Umbarger stated this is an issue that should be addressed in a contract between the distributor and retailer.

Senator Vratil raised concerns with proof of ownership of the bulk containers. In addition, he felt the bill could not be enforced.

Senator Pilcher-Cook asked whether the retailer could pay a deposit.

Mr. Downing replied that retailers do not want to pay deposits.

Senator Bruce asked that action be deferred until information is provided to the committee

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relating to steps taken by the industry to mitigate losses or protect their own interests.

Senator Owens stated that payment of deposits has become a cost of doing business and that it is an issue to be settled by business not the legislature.

Written testimony in support of **SB 164** was submitted by Michael R. Murray on behalf of the Kansas Food Dealers Association and the Retail Grocers Assn. of Greater Kansas City (Attachment 10).

The Chairman closed the hearings on **SB 164**.

The Chairman called the committee's attention to additional written testimony provided by Norman Williams, Chief of Police, City of Wichita, in support of **SB 135 -- Kansas racketeer influenced and corrupt organization act** (Attachment 6).

Meeting adjourned at 10:25 A.M. The next meeting is scheduled for February 18, 2011.