

Journal of the House

FORTY-FOURTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, March 15, 2004, 10:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 114 members present.

Reps. Dreher, Holmes, Kassebaum, Long-Mast, Reitz and Svaty were excused on legislative business.

Reps. Huff, Neighbor, Sawyer, Storm, and Swenson were excused on excused absence by the Speaker.

Present later: Rep. Dreher, Holmes, Kassebaum, Long-Mast and Svaty.

Prayer by Chaplain Chamberlain:

God of new beginnings and second chances, we turn to you again as we start a new week. We are renewed by your grace and the promise that you will walk with us in the days ahead. We thank you for the renewal of energy and hope that comes with Sabbath rest and we pray this morning that all that you have given us might be used in ways that please you.

Send your Holy Spirit upon the women and men gathered in this chamber. Bless the work that they do this week, for it is work done in the name of all of your children in Kansas. Give them vision to see possibilities and courage to seek new solutions for the challenges that we face. Strengthen them so that they might stand firm for the principles that brought them here, but make them flexible enough that in cooperation and compromise they might find the way forward in difficult circumstances. In all things, O God, grant them the joy that comes from fulfilling your call in their lives.

Bless each servant, bless our state and bless all its people as we live in your grace. Amen.

The Pledge of Allegiance was led by Rep. Minor.

INTRODUCTION OF GUESTS

Rep. Ballard introduced Robert Chamberlain, a graduate of the University of Kansas and son of Chaplain Michael Chamberlain. Robert deferred his studies as a Rhodes Scholar at Oxford University in England to serve his country in Iraq. He is now stationed at Fort Campbell in Kentucky and will go to England in October. Robert addressed a few remarks to the members of the House.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **SB 487**, **SB 527**.

Health and Human Services: **SB 529**.

Insurance: **SB 542**.

Judiciary: **SB 432**.

COMMUNICATIONS FROM STATE OFFICERS

From Tracy Taylor, President & CEO, and Ted Haggart, Chairman of the Board, Kansas Technology Enterprise Corporation, Annual Report, 2003.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

CONSENT CALENDAR

No objection was made to **SB 443, SB 452** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2912; SB 366** appearing on the Consent Calendar for the second day.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Shultz in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Shultz, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2908; SB 338** be passed.

Committee report to **SB 353** be adopted; and the bill be passed as amended.

Committee report to **HB 2835** be adopted; also, on motion of Rep. Loyd be amended on page 1, in line 23, by striking all after "(c)"; by striking all in lines 24 through 33; in line 34, by striking "(d)";

On page 2, in line 2, by striking "(e)" and inserting "(d)"; after line 8, by inserting the following:

"Sec. 2. (a) The owner or lessee of a motion picture theater where a motion picture is being exhibited, or the authorized agent or employee thereof, who alerts law enforcement authorities of an alleged violation of section 1, and amendments thereto, shall not be liable in any civil action arising out of measures taken by such owner, lessee, agent or employee in the course of subsequently detaining a person that the owner, lessee, agent or employee in good faith believed to have violated section 1, and amendments thereto, while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was unreasonably long.

(b) "Motion picture theater" has the meaning ascribed thereto in section 1, and amendments thereto."

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 10, by striking "defining and classifying the crime of unlawful" and inserting "concerning the"; in line 11, before the period by inserting "; criminal violation; civil liability"; and **HB 2835** be passed as amended.

Committee report to **SB 404** be adopted; and the bill be passed as amended.

Committee report to **HB 2582** be adopted; also, on motion of Rep. Ostmeier be amended on page 1, in line 30, by striking the third comma and inserting "and"; also in line 30, by striking "and"; in line 31, by striking "Ness"; in line 41, by striking "9" and inserting "eight"; in line 42, by striking "Five" and inserting "Four"; in line 43, by striking "five" and inserting "four";

On page 2, in line 9, by striking the comma and inserting "and"; in line 10, by striking "and Ness"; and **HB 2582** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Economic Development** recommends **SB 480** be amended on page 1, in line 30, by striking all after the colon; by striking all in line 31 and inserting the following:

"(a) "Angel investor" means an individual investor of high net worth who seeks high returns through private investments in start-up companies and may seek active involvement in business, such as consulting and mentoring the entrepreneur;

(b) "cash investment" means money or money equivalent in consideration for qualified securities;"

And by relettering the remaining subsections accordingly;

On page 2, in line 25, by striking “except that no tax credit shall be allowed in a year prior to 2006”; in line 27, by striking “beginning in the”; in line 28, by striking “year 2006.”;

On page 3, after line 41, by inserting the following:

“(3) a statement of the business innovative and propriety technology, product or service.”;

And by relettering the remaining subsections accordingly;

On page 5, after line 21, by inserting the following:

“(4) the business has an innovative and proprietary technology, product or service.”;

And by relettering the remaining subsections accordingly;

On page 6, in line 43, after the period by inserting “Upon loss of the designation as a qualified Kansas business or if a business loses its designation as a qualified Kansas business under this act by moving its operations outside Kansas within 10 years after receiving financial assistance under this act, such business shall repay such financial assistance to the corporation, in an amount determined by the corporation. Each qualified Kansas business that loses such designation shall enter into a repayment agreement with the corporation specifying the terms of such repayment obligation.”; and the bill be passed as amended.

Committee on **Insurance** recommends **SB 311** be passed.

Committee on **Insurance** recommends **SB 342** be amended on page 1, following line 14, by inserting the following:

“Section 1. K.S.A. 8-173 is hereby amended to read as follows: 8-173. (a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

(1) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before June 21 such receipt need show payment of only one-half the preceding year’s tax; or

(2) evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer or was exempt from taxation under the laws of this state.

(b) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year.

(c) An application for registration or renewal of registration of a motor vehicle shall not be accepted until the applicant signs a certification, provided by the director of motor vehicles, certifying that the applicant has and will maintain, during the period of registration, the required insurance, self insurance or other financial security required pursuant to K.S.A. 40-3104 and amendments thereto.

(d) An application for registration or renewal of registration of a vehicle shall not be accepted if the applicant is unable to provide proof of the insurance, self insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated. Proof of insurance shall be verified by examination of the insurance card or other documentation issued by an insurance company, a certificate of self insurance issued by the commissioner, a binder of insurance, a certificate of insurance, a motor carrier identification number issued by the state corporation commission, proof of insurance for vehicles covered under a fleet policy, a commercial policy covering more than one vehicle or a policy of insurance required by K.S.A. 40-3104, and amendments thereto and for vehicles used as part of a drivers education program, a dealership contract and a copy of a motor vehicle liability insurance policy issued to a school district or accredited nonpublic school. Examination of a photocopy or facsimile of any of these documents shall suffice for verification of registration or renewal. Proof of insurance may also be verified on-line or electronically *and the commissioner of insurance may require, by duly adopted rules and regulations, any motor vehicle liability insurance company authorized to do business in this state to provide verification of insurance in that manner. Any motor vehicle liability insurance company which is providing verification of insurance on-line or electronically on the day preceding the effective date of this act may continue to do so in the same manner and shall be deemed to be in compliance with this section.*

Sec. 2. K.S.A. 40-306 is hereby amended to read as follows: 40-306. The board of directors shall elect from their number a president and vice-president, and shall appoint a secretary, treasurer and such other officers as shall be prescribed in the bylaws, and shall fill any vacancy that may occur. They shall also have power to appoint any agents necessary for transacting the business of the company, pay such salaries and require such bonds as they may deem reasonable; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times be open to the inspection of the stockholders. ~~All contracts made by the company shall be signed by the president or vice-president, and secretary, but such requirement shall not apply to any contract now in existence or hereafter entered into between the company and its agents.~~;

By renumbering the remaining sections accordingly;

On page 2, in line 26, by striking "40-2202 is" and inserting "8-173, 40-306 and 40-2202 are";

In the title, in line 10, following the semicolon, by inserting "pertaining to motor vehicle insurance; pertaining to contracts by stock insurance companies;"; in line 11, following "K.S.A." by inserting "8-173, 40-306 and"; in line 12, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2544** be amended on page 6, in line 6, after "optometry" by inserting ", and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto";

On page 7, in line 5, by striking "food products" and inserting "tangible personal property"; in line 13, by striking "food"; in line 14, by striking "products" and inserting "tangible personal property"; in line 16, after "purpose" by inserting ", and all sales of food products by or on behalf of any such contractor or organization for any such purpose";

On page 15, in line 22, by striking "and" where it appears for the last time; in line 23, by striking all after "(9)"; by striking all in line 24; in line 25, by striking "crafts" and inserting "the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities"; after line 25, by inserting the following:

"(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease; and

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;";

On page 20, in line 6, by striking "and"; in line 11, after "materials" by inserting the following:

"; and

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence";

Also on page 20, in line 13, after "after" by inserting "January 1, 2005, and";

On page 1, in the title, in line 9, by striking "for certain"; in line 10, by striking "nonprofit corporations"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2627** be amended on page 1, by striking all in lines 16 through 27;

And by renumbering sections accordingly;

Also on page 1, in the title, in line 10, by striking all after the semicolon; in line 11, by striking all before "authorizing"; and the bill be passed as amended.

(Having been referred separately, **HB 2627** is now in Committee on Higher Education.)

Committee on **Taxation** recommends **SB 147** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 147," as follows:

“HOUSE Substitute for SENATE BILL No. 147

By Committee on Taxation

“AN ACT concerning taxation; relating to personal property; delinquent taxes in certain counties; amending K.S.A. 2003 Supp. 79-2017 and repealing the existing section.”; and the substitute bill be passed.

(H. Sub. for SB 147 was thereupon introduced and read by title.)

Committee on **Utilities** recommends **SB 309** be amended on page 1, in line 23, by striking all after “surer”; in line 24, by striking “for such offense” and inserting “(1) A sum not less than \$100 and not more than \$1,000 for such offense if the violator is a telecommunications public utility subject to traditional rate of return regulation; a telecommunications public utility described in K.S.A. 66-104a, and amendments thereto; a municipally owned and operated electric or natural gas public utility; an electric cooperative public utility; a water public utility; or a nonprofit public utility; and (2) a sum not less than \$100 and not more than \$20,000 for such offense if the violator is any other common carrier or public utility”;

On page 2, after line 17, by inserting:

“Sec. 2. K.S.A. 66-177 is hereby amended to read as follows: 66-177. (a) Any public utility or common carrier willfully violating or evading any of the provisions of law for the regulation of such public utility or common carrier not otherwise specifically provided for shall, for each offense, forfeit and pay a penalty of ~~not less than \$100 nor more than \$5,000~~. (1) *Not less than \$100 nor more than \$5,000 if the violator is a telecommunications public utility subject to traditional rate of return regulation; a telecommunications public utility described in K.S.A. 66-104a, and amendments thereto; a municipally owned and operated electric or natural gas public utility; an electric cooperative public utility; a water public utility; or a nonprofit public utility; and (2) not less than \$100 nor more than \$50,000 if the violator is any other common carrier or public utility.* All penalties provided for herein shall be recovered by a civil action, to be instituted and prosecuted in the name of the state, by the county attorney of the county in which the offense has been committed, upon the direction of the corporation commission. If upon the trial of the action the jury finds for the plaintiff, the jury shall assess and return with their verdict the amount of the fine to be imposed upon the defendant and the court shall render judgment accordingly. All such penalties recovered shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto, and the corporation commission may require the attorney general to assist such county attorney in the prosecution of such action. No bond for costs shall be required of the state in any such action.

(b) The provisions of subsection (a), shall not apply to any motor carrier.”;

Also on page 2, by renumbering sections 2 and 3 accordingly; in line 18, by striking “is” and inserting “and 66-177 are”;

In the title, in line 11, before “and” by inserting “and 66-177”; in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2931, An act concerning the state health care benefits program; relating to participation of public school districts; amending K.S.A. 2003 Supp. 75-6506 and repealing the existing section, by Committee on Appropriations.

HB 2932, An act concerning schools and school districts; relating to school finance; providing revenue therefor; amending K.S.A. 72-6405, 72-6410, 72-6412, 72-6413, 72-6414 and 72-6442 and K.S.A. 2003 Supp. 72-6407, 72-6431, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 72-6433b and 72-6440 and K.S.A. 2003 Supp. 72-6431b, 72-6431c, 79-201y, 79-3603c, 79-3620c and 79-3710a, by Committee on Appropriations.

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HB 2933, An act concerning certain postsecondary educational institutions; relating to out-district tuition; amending K.S.A. 2003 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34, 19-101a, 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610 and 71-1705 and repealing the existing sections, by Committee on Appropriations.

HB 2934, An act concerning tax increment financing; relating to redevelopment project costs; amending K.S.A. 2003 Supp. 12-1770a and repealing the existing section, by Committee on Taxation.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Tuesday, March 16, 2004.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

