

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

Held in Room 531 - N, at the Statehouse at 1:30 ~~XXXX~~ p. m.,

on January 19, 1983.

All members were present except:

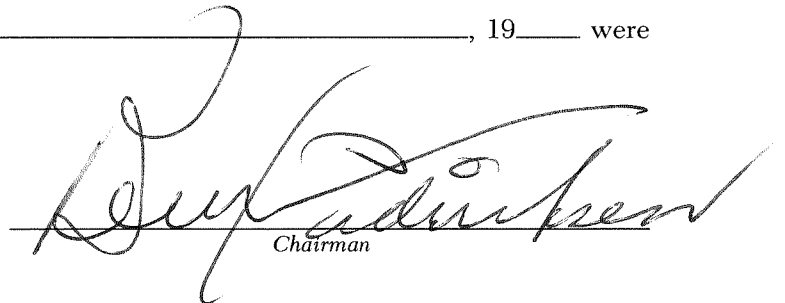
The next meeting of the Committee will be held at 1:30 ~~XXXX~~ p. m.,

on January 26, 1983.

These minutes of the meeting held on \_\_\_\_\_, 19\_\_\_\_ were considered, corrected and approved.

STAFF:

Norm Furse, Revisor's Office  
Julian Efird, Legislative  
Research



Chairman

The conferees appearing before the Committee were:

Glenn Deck - Legislative Post Audit  
Barbara Hinton - Legislative Post Audit  
Brian Moline - KCC

Senator Vidricksen called the meeting to order and briefly explained the Kansas Sunset Law and Entities Subject To the Kansas Sunset Law, copies of which were distributed to each committee member. (Exhibit A)

Glenn Deck introduced Barbara Hinton and she explained the audit of the Public Utility Regulatory Program and Post Audit.

The Agency Response was presented by Brian Moline who addressed each of the audit sections of the report.

Several questions were raised regarding procedures and decisions made by the KCC and the meeting was extended an extra 15 minutes to give ample time for members to question Mr. Moline.

No action was taken on S.B. 42 reinstating the Corporation Commission under the Sunset provision.

A motion was made by Senator Gaines to approved the minutes of the last meeting. It was seconded by Senator Meyers. Motion carried.

The meeting was adjourned at 2:45 p.m. by the Chairman.

GUEST LIST

COMMITTEE: Senate Governmental Organization DATE: Jan. 19, 1983

NAME	ADDRESS	COMPANY/ORGANIZATION
Barb Hinton	<del>90</del> 109 W. 9th, Suite 301	Legislative Post Audit
Harold Hoag	5709 W 21st	Ks Elec Coop
Jerry Coombd	Topeka	KGE
Glenn Deck	Topeka	Legislative Post Audit
Brian Moline	Topeka	KCC
Carol Hopkins	Topeka	KCC
Diane Fisher	Lawrence	University Daily Kansan

**74-7027** STATE BOARDS, COMMISSIONS AND AUTHORITIES**74-7027.**

## Law Review and Bar Journal References:

"Rethinking Kansas Administrative Procedure," Marilyn V. Ainsworth and Sidney A. Shapiro, 28 K.L.R. 419, 429, 430 (1980).

**Article 72.—KANSAS SUNSET LAW**

## Revisor's Note:

The sections constituting the original sunset law were repealed in 1981, and the sections constituting the sunset law contained in this article were enacted in the same year. Certain key provisions of the law were changed, different agencies and offices were selected to be subject to abolition, and many of the agencies and offices to which the original law applied are no longer affected.

## Cross References to Related Sections:

Legislative division of post audit, see ch. 46, art. 11.

**74-7201, 74-7202.**

History: K.S.A. 74-7201, 74-7202; Repealed, L. 1981, ch. 299, § 64; July 1.

**74-7204 to 74-7210.**

History: K.S.A. 74-7204 to 74-7210; Repealed, L. 1981, ch. 299, § 64; July 1.

**74-7211.**

History: K.S.A. 74-7211; L. 1981, ch. 303, § 1; Repealed, L. 1981, ch. 299, § 64; July 1.

**74-7212 to 74-7218.**

History: K.S.A. 74-7212 to 74-7218; Repealed, L. 1981, ch. 299, § 64; July 1.

**74-7219.**

History: K.S.A. 74-7219; Repealed, L. 1981, ch. 248, § 9; July 1.

**74-7220.**

History: K.S.A. 74-7220; Repealed, L. 1981, ch. 249, § 5; July 1.

**74-7221.** Board of embalming abolished. Except as provided in K.S.A. 74-7237, the state board of embalming established and created by K.S.A. 1981 Supp. 74-1701, shall be and is hereby abolished on July 1, 1987.

History: L. 1978, ch. 308, § 21; L. 1981, ch. 300, § 3; July 1.

## Revisor's Note:

This amendment is one of two actions taken on the same section in 1981 session. The section was also repealed, see 74-7221a.

Section 74-7237 now repealed. Reference should be to 74-7246.

**74-7221a.**

History: L. 1978, ch. 308, § 21; Repealed, L. 1981, ch. 299, § 64; July 1.

## Revisor's Note:

This repeal is the second of two actions taken on the same section in the 1981 session, see 74-7221.

**74-7222.**

History: K.S.A. 74-7222; Repealed, L. 1981, ch. 304, § 10; July 1.

**74-7223.**

History: K.S.A. 74-7223; Repealed, L. 1981, ch. 299, § 64; July 1.

**74-7224, 74-7225.**

History: K.S.A. 74-7224, 74-7225; Repealed, L. 1981, ch. 2, § 16; July 1.

**74-7226 to 74-7244.**

History: K.S.A. 74-7226 to 74-7244; Repealed, L. 1981, ch. 299, § 64; July 1.

**74-7245.** Citation of act; expiration date. (a) The provisions of K.S.A. 1981 Supp. 74-7245 to 74-7272, inclusive, and all acts amendatory thereof or supplemental thereto, shall be known and may be cited as the "Kansas sunset law."

(b) The provisions of the Kansas sunset law shall expire on July 1, 1984.

History: L. 1981, ch. 299, § 1; July 1.

**74-7246.** Conclusion of affairs of abolished agencies; procedures for continuance and reestablishment of state agencies, period of time. (a) For the purposes of concluding its affairs, each state agency or office abolished under the Kansas sunset law shall continue in existence until the July 1 next succeeding the date of abolition of such state agency or office. During this period of time and notwithstanding the abolition of the state agency or office under the Kansas sunset law, each such state agency and each person holding such state office, or the successor thereof, shall exercise all of the powers, duties and functions of such state agency or office. Upon the expiration of this period on the next succeeding July 1, each such state agency and each person holding such state office, or the successor thereof, shall cease all activities and shall have no further authority to act unless such state agency or office is continued or reestablished in accordance with subsection (b). No state agency or office abolished and not continued or reestablished, shall have less than the period of time provided for in this subsection to conclude its affairs.

(b) Any state agency or office subject to abolition under the Kansas sunset law may

be continued in existence or reestablished by act of the legislature, but no such continuance or reestablishment shall be for a period of time in excess of eight years. Only one state agency or office shall be continued in existence or reestablished in any one act of the legislature and the name of such state agency or office shall be included in the title of such act. No new state agency or office which has the same or substantially the same jurisdiction as any state agency or office subject to abolition under the Kansas sunset law shall be created, established or organized by act of the legislature or executive reorganization order, to exist for a period of time in excess of eight years. Each such state agency or office continued or reestablished and each such new state agency or office created, established or organized, shall be subject to abolition under the Kansas sunset law.

History: L. 1981, ch. 299, § 2; July 1.

**74-7247.** Performance audits of agencies to be abolished authorized; final report, review, approval and distribution; subsequent audits. The legislative post audit committee may direct the post auditor to conduct a performance audit of each state agency and office which is subject to abolition under the Kansas sunset law or may direct the post auditor to conduct a performance audit of any of the programs, duties or functions of any such state agency or office. In conducting any such performance audit, the post auditor shall include a determination of such factors as may be directed to be included by the legislative post audit committee. Upon completion of the performance audit, the legislative post audit committee shall review and approve a final report thereon. A copy of the final report of each performance audit conducted pursuant to this section shall be made available to each member of the legislature in accordance with the provisions of K.S.A. 46-1212c. If a state agency, office, program, duty or function has been the subject of a performance audit under the provisions of this section and is again to be the subject of a performance audit within the next succeeding three years, the legislative post audit committee or, subject to the approval of the legislative post audit committee, either committee of reference, or both committees of reference, holding the public hearings

required under K.S.A. 74-7239, and any amendments thereto, may fix parameters within which the post auditor shall conduct the performance audit.

History: L. 1981, ch. 299, § 3; July 1.

Revisor's Note:

Section 74-7239 now repealed. Reference should be to 74-7248.

**74-7248.** Public hearings on abolition, continuation and reestablishment of state agencies; burden of demonstrating need; factors to be considered. (a) Prior to the abolition of a state agency or office under the Kansas sunset law or to the continuation or reestablishment thereof, a committee of reference in each house of the legislature shall hold a public hearing on such abolition, continuation or reestablishment. Each such committee shall receive testimony from the public, the state agency or officer involved and other appropriate state officers. The committee shall also consider any performance audit approved by the legislative post audit committee under K.S.A. 1981 Supp. 74-7247. In all such hearings, the state agency or officer involved shall have the burden of demonstrating a public need for continued existence and the necessity for and extent of any changes in the state agency or office or in its enabling statutes which would increase the efficiency or effectiveness of the administration or operation of the state agency or office.

(b) In such public hearings, the committee of reference shall take into consideration the following factors, if applicable, among others, in developing its recommendations and determining whether there is a public need for the continued existence of the state agency, office, program, function or duty involved:

(1) Whether the absence of the state agency or office or of any program, function or duty thereof would significantly harm or endanger the public health, safety or welfare;

(2) whether there is a reasonable relationship between the exercise of the police power of the state by the state agency or office and the protection of the public health, safety or welfare;

(3) whether there is another less restrictive method of regulation available which could adequately protect the public;

(4) whether regulation, administration of

the program or performance of the function or duty by the state agency or office has the effect of directly or indirectly increasing the cost of any goods or services involved, and, if so, to what degree;

(5) whether the increase in cost is more harmful to the public than the harm which could result from the absence of regulation, administration of the program or performance of the function or duty by the state agency or office;

(6) whether all facets of the regulatory or administrative process are designed solely for the purpose of the protection of public interests and have such protection as a primary effect; and

(7) whether the purposes of the state agency or office or of any program, function or duty thereof can be accomplished in a more efficient, effective or economical manner.

History: L. 1981, ch. 299, § 4; July 1.

**74-7249.** Rights of and claims against abolished agencies transferred to governor; rights preserved in legal proceedings; inherent legislative powers reserved; personnel transfers; disposition of property and records. (a) No provision of the Kansas sunset law shall affect any vested right or result in the dismissal of any lawful claim or right of any person against any state agency or office abolished under the Kansas sunset law or of any lawful claim or right of any such state agency or office which is the subject of litigation. All such claims and rights shall be imposed upon and assumed by the governor and are hereby transferred to and devolved upon the governor. As used in this subsection, "person" shall include any individual, partnership, association, or corporation.

(b) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or office abolished under the Kansas sunset law or by or against any officer of such state agency or office in relation to the discharge of duties imposed by law, shall abate by reason of the abolition of such state agency or office under the Kansas sunset law. The court may allow any such suit, action or other proceeding to be maintained by or against the governor as the chief executive officer of the state.

(c) No criminal action commenced or

which could have been commenced by the state shall abate by the abolition of a state agency or office under the Kansas sunset law.

(d) No provision of the Kansas sunset law shall affect the inherent power of the legislature to enact legislation concerning any state agency or office subject to abolition under said law.

(e) All transfers of personnel and any abolition of personnel positions under the Kansas civil service act resulting from the abolition of any state agency or office under the Kansas sunset law, shall be in accordance with the provisions of the Kansas civil service act and any rules and regulations adopted thereunder.

(f) Upon the conclusion of the affairs of an abolished state agency or office in accordance with K.S.A. 1981 Supp. 74-7246, the title to all property held by such state agency or office shall be and is hereby transferred to and devolved upon the governor and such property shall be disposed of as directed by the governor. The records of such state agency or office shall be transferred to the secretary of state and shall be kept and maintained in the office of the secretary of state for a period of time of not less than six years. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the abolition of any state agency or office under the Kansas sunset law, shall be determined by the governor and the reconciliation of such conflict pursuant to this section shall be final.

History: L. 1981, ch. 299, § 5; July 1.

**74-7250.** Commission on civil rights abolished. Except as provided in K.S.A. 1981 Supp. 74-7246, the commission on civil rights created by K.S.A. 44-1003, shall be and is hereby abolished on July 1, 1982.

History: L. 1981, ch. 299, § 6; July 1.

**74-7251.** State corporation commission abolished. Except as provided in K.S.A. 1981 Supp. 74-7246, the state corporation commission created by K.S.A. 74-601, shall be and is hereby abolished on July 1, 1982.

History: L. 1981, ch. 299, § 7; July 1.

**74-7252.** Department and office of secretary of social and rehabilitation services abolished. Except as provided in K.S.A. 1981 Supp. 74-7246, the office of sec-

ENTITIES SUBJECT TO THE KANSAS SUNSET LAW AS OF JULY 1, 1982

July 1, 1982

Kansas Energy Office and Office of the Director  
Energy Advisory Council

July 1, 1983

State Corporation Commission  
Board of Nursing  
State Board of Healing Arts  
Department of Revenue and Office of the Secretary  
Department of Transportation and Office of the Secretary

July 1, 1984

Department of Corrections and Office of the Secretary  
Division of Information Systems and Computing (DISC) and  
Director of DISC  
Department of Human Resources and Office of the Secretary

July 1, 1985

Insurance Department and Office of the Commissioner  
Department of Economic Development and Office of the Secretary  
Office of the State Treasurer  
Pooled Money Investment Board

July 1, 1986

Kansas Water Authority  
Kansas Water Office and Office of the Director  
Kansas State Library and Office of the State Librarian  
Department of Health and Environment and  
Office of the Secretary  
Department on Aging and Office of the Secretary

July 1, 1988

Department of Social and Rehabilitation Services  
and Office of the Secretary

July 1, 1990

Civil Rights Commission