

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by Senator Paul Hess at _____
Chairperson

3:15 a.m./p.m. on March 19, 1984 in room 123-S of the Capitol.

All members were present except:
Senator Talkington

Committee staff present:

Research Department: Ed Ahrens, Mary Galligan, Lynne Holt, Bill Gilmore
Revisor's Office: Norman Furse
Committee Office: Mark Skinner, Doris Fager

Conferees appearing before the committee:

Michael Barbara, Secretary of Corrections
Paul Flower, Real Estate Commission
Todd Sherlock, Kansas Association of Realtors
Bill Wolff, Research Department

HB 2805 - Appropriations FY 1985, Regents' Institutions
Systemwide Issues

Fee Waivers (Page 2-35)

Discussion continued concerning fee waivers at the various universities. Several options were discussed.

Motion was made by Senator Warren and seconded by Senator Gaines to approve 60% fee waivers for graduate teaching assistants instead of the 65% approved by the House Committee. The motion carried by voice vote.

Stipends - Graduate Research Assistants (Page 2-37)

There was discussion among committee members about this subject, and questions were asked about the support for stipends. It was revealed that this area has not been funded in the manner of stipends in the past, but in the unclassified salary part of the budget. It was decided to follow the decision of the House Committee and disallow this request.

Servicing New Buildings (Page 2-38)

Staff explained that the House committee had concurred with the Governor's recommendations. The Senate committee agreed with those recommendations, also.

Research for Economic Development (Page 2-39)

Staff explained that the House Committee recommended that any unexpended balances for the Centers of Excellence be re-appropriated to FY 1985. That requires a 150% match from private sources, and the increase in the amount appropriated is basically maintenance increases. The Committee agreed to follow the recommendation of the House.

Regents' Distinguished Professors (Page 2-40)

Staff noted that the House committee had concurred with the Governor in his recommendation. Following a lengthy discussion, a motion was made by Senator Doyen and seconded by Senator Steineger to allocate a total of \$125,000 for this item, with five positions to be allocated by the Board of Regents. The motion carried by voice vote.

Student Tuition (Page 2-41)

The information given in the Budget Memo on this subject is informational, and no decision was made by the committee.

HB 2805 - Continued
Systemwide Issues - Continued

The following items were considered by the committee following conclusion of decision making on items included in the Budget Memo.

1. According to staff, the Legislature had created an equipment reserve fund as a vehicle to allow institutions to take savings and transfer them into this account for equipment in the following fiscal year. The fund was created with "0" budget limitation. The institutions have requested, and the House Committee approved an appropriation of "No limit" on that account.

2. The following provisos have been requested regarding the restricted fees funds in sponsored research at the three large universities and the University of Kansas Medical Center: (a) One proviso would allow projects to run with the grant year; (b) Another proviso has to do with competitive bidding requirements for contracts. Kansas State University and the University of Nebraska jointly go to the Federal Government for grants for research projects which provide for contractors' services. This would eliminate these from competitive bidding requirements; (c) Another proviso would eliminate competitive bidding requirements when research projects require foreign countries to be involved.

All of the above items were approved by the committee.

Staff indicated that one final item may be necessary for inclusion in the Omnibus appropriations bill. The institutions are requesting supplemental funding in the current fiscal year of \$140,000, plus additional funding in FY 1985 for telephone rate increases.

SB 829 - Community Corrections; eligibility of counties for supplementary grant funds, etc.

Secretary Barbara distributed Attachment A, which provides a thorough explanation of the amendments contained in SB 829. He reviewed the amendments for the committee. There were questions from committee members concerning prison population, costs, etc.

No action was taken on SB 829.

HB 2696 - SRS placement agreement with secretary of corrections

Secretary Barbara indicated his department is in favor of this bill. He said agreements have been entered into between the two departments, and HB 2696 simply recognizes the agreements and makes them entirely legal.

Motion was made by Senator Bogina and seconded by Senator Hein to report HB 2696 favorably for passage. The motion carried by roll call vote.

SB 830 - Errors and Omissions liability insurance for real estate brokers

Senator Hein indicated that the subcommittee which studied the budget for the Real Estate Commission had this matter called to their attention; and that it was their understanding that the liability of an uninsured individual is sometimes paid, and sometimes includes attorney's fees. He further indicated that it was his understanding there was a restriction or suspension of an individual's license until the fund is repaid for those fees. In answer to a question from Senator Steineger, he said Errors and Omissions insurance coverage can be purchased at a reasonable price.

Mr. Flower explained that, in the cases where claims have been paid from the recovery fund, they are not fully covered. He added that approximately \$100,000 will be paid out this year. He said he was concerned that the insurance did not cover fraud. Senator Gaines commented that it would depend upon the Court as to whether the Errors and Omissions insurance covered fraud.

There was discussion concerning the approach of having a blanket bond instead of having the recovery fund. Mr. Flower said he did not think the Commission would object to that approach. He said, however, that it is cheaper to have the recovery fund than to go the bond route.

SB 830 - Continued

Mr. Sherlock presented his written testimony (Attachment B). He read his statement and answered questions from committee members. He appeared in opposition to SB 830.

There was no action on SB 830.

HB 2991 - Prohibiting payments on certain claims by subrogees of insured persons

Mr. Wolff explained that the bill originated out of mutual concern by the Claims Committee and the Department of Administration. There is now no authorization in statute to allow them to disallow payment to insurance companies acting on behalf of claimants. The language in HB 2991 clarifies this authorization.

Motion was made by Senator Doyen and seconded by Senator McCray to report HB 2991 favorably for passage. The motion carried by roll call vote.

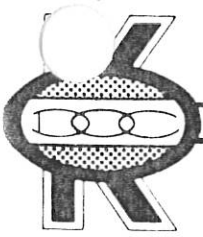
SB 824 - Relating to veterans' preference; concerning retired veterans

Motion was made by Senator Werts and seconded by Senator Warren to report SB 824 favorably for passage. After a brief discussion, the motion lost on a roll call vote.

INTRODUCTION OF BILL

Motion was made by Senator Werts and seconded by Senator Bogina to introduce a bill allowing tax credits for military retirement benefits to any taxpayer 62 years of age and over as of December 31 of any taxable year. The motion carried by voice vote.

The meeting was adjourned by the Chairman.



KANSAS DEPARTMENT OF CORRECTIONS

JOHN CARLIN — GOVERNOR

MICHAEL A. BARBARA — SECRETARY

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TO: Members of the Senate Judiciary Committee
FROM: Secretary Michael A. Barbara
DATE: March 19, 1984
SUBJECT: S.B. 829

Attached are briefing papers explaining the three proposed amendments to the Community Corrections Act contained in S.B. 829. The proposed amendments relate to:

1. Property ownership of items purchased with state grant funds (lines 118-127).
2. A ceiling or "cap" on the length of time counties are charged for prison commitments to compensate for the longer sentences resulting from H.B. 3104 (lines 098 to 103).
3. A supplementary entitlement formula for small to mid-size counties with high commitment rates for which the current formula does not provide sufficient funds to operate a program (New Section 1, lines 24-49).

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PROPERTY OWNERSHIP

Currently, there is no provision in the Community Correction Act regarding the state retaining ownership of property purchased by community corrections grant funds. Therefore, if a county withdraws from participation, the property acquired would belong to the county.

Under the proposed amendment to the Community Corrections Act, the Secretary of Corrections could require the return to the state of all property acquired within the two (2) preceding years.

PROPOSED CAP ON CHARGES TO COMMUNITY CORRECTIONS COUNTIES

PROBLEM

As an incentive to reduce prison commitments, counties participating in community corrections are charged the daily rate of maintenance in Department of Corrections facilities for each offender committed who is in the chargeback category. The current daily charge is \$30.11.

The increase in minimum sentences as a result of H.B. 3104, effective 7-1-82, will result in so many additional days for which community corrections counties will be charged that only two counties, Leavenworth and Riley, would have enough funds left to operate programs. This problem is a result of the fact that the formula for computing entitlements and assessing chargebacks were based on sentencing policies prior to the changes contained in H.B. 3104.

Under H.B. 3104, D felony offenders will serve an average of 306.6 more days and E felony offenders will serve 69.3 more days than prior to H.B. 3104. The average length of stay for D felonies was 394.2 days prior to H.B. 3104 versus 700.8 projected under H.B. 3104. The average length of stay for E felonies was 303 days prior to H.B. 3104 versus 372.3 days projected under H.B. 3104. (The projections are conservative as it is assumed all good time is earned and that parole is granted at the earliest date of eligibility).

Projected additional annual charges to community corrections counties for chargeback offenders committed to the Secretary of Corrections under H.B. 3104 are as follows:

Bourbon/Linn/Miami	\$ 84,294
Johnson	\$ 644,902
Leavenworth	\$ 36,927
Riley	\$ 83,086
Sedgwick	\$ 1,215,071
Shawnee	\$ 303,548
Wyandotte	\$ 468,510
TOTAL	\$ 2,836,338

Due to the lag in the date an offense was committed and a resulting prison admission, the fiscal impact of H.B. 3104 will begin to effect community corrections counties in the last half of FY 1984 and will be fully felt in FY 1985. Therefore, action is necessary in the 1984 legislative session to prevent the termination of community corrections.

LEGISLATION PROPOSED

Place a cap on the number of days of confinement for which a county is charged equal to the number of days that would have been served prior to H.B. 3104. The cap would use the average length of time served by class of felony for offenders paroled during fiscal year 1983 because that is the most recent full fiscal year in which H.B. 3104 was not in effect.

COMMUNITY CORRECTIONS
SUPPLEMENTARY ENTITLEMENT FORMULA

PROBLEM

Participating in community corrections is not financially feasible for many mid-size counties. This is because these counties have such high prison commitment rates that they would have to reduce the number of chargeback offenders in prison and youth centers by 80 to 90% in order to have minimal funds to operate a program after chargeback costs are deducted. The problem is a result of historically high commitment rates combined with smaller entitlements due to the size of the county. Commitment rates are not a part of the current entitlement formula.

LEGISLATION PROPOSED

Amend the Community Corrections Act to provide a per capita supplement to the regular entitlement for all counties or county units with population between 15,000 and 100,000 and chargeback commitment rates above the overall state rate.

The amount of the supplement would be in proportion to the difference between the state and county commitment rates and in proportion to the size of the county's population. The current entitlement formula would not change but would have the supplementary formula added to it. The supplementary entitlement formula would provide an additional amount of funds to be added to the funds for which the county is eligible under the current formula.

COUNTIES ELIGIBLE FOR SUPPLEMENT

The following counties would currently be eligible for the supplement under FY 83 commitment and population figures: Allen, Atchison, Butler, Cowley, Dickinson, Finney, Ford, Geary, Lyon, McPherson, Montgomery, Neosho, Osage, Saline, Sumner. These counties had a total of 288 chargeback prison commitments in FY 1983.

MONTGOMERY COUNTY EXAMPLE

Montgomery County wishes to begin participation in community corrections in FY 1984. However, under the current entitlement formula there would not be adequate funds for Montgomery County to operate a program even if commitments were reduced significantly.

There were 38 chargeback prison and 12 chargeback youth center commitments from Montgomery County in FY 1983. If the number of chargeback offenders in prison and youth centers were reduced by 50% of Montgomery's present level, there would be only \$19,000 left after deducting for charges. At the same level of reduction, the proposed supplementary entitlement formula would provide Montgomery County \$230,000 to operate a program.

The FY 1984 appropriation for Montgomery County would be \$121,141 under the current formula and \$224,284 with the addition of the supplementary entitlement.



KANSAS ASSOCIATION OF REALTORS

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SENATE WAYS AND MEANS COMMITTEE

Testimony presented March 19, 1984

Mr. Chairman and members of the Committee, my name is Todd Sherlock and I represent the Kansas Association of REALTORS. We oppose Senate Bill 830, an act amending the real estate brokers' and salespersons' license act, and its subsequent elimination of the real estate recovery fund.

Our association would prefer to see the real estate recovery fund remain in existence. Each real estate licensee in this state pays a nominal fee included in the licensing fee to maintain this fund. We feel the fund is adequate to cover most injustices the home-buying public may encounter. Our association is also concerned with the types of errors and omissions policies which would be mandated in lieu of the recovery fund.

Most errors and omissions policies that we deal with do not cover fraud or intentional acts. The real estate recovery fund, however, would pay these damages to the aggrieved property buyer.

The Kansas Association of REALTORS would prefer to see this bill studied in an interim committee so that we may better have an opportunity to examine the costs involved in the requirement of errors and omissions insurance. We would also like to explore how such a requirement would effect part time salespersons and whether or not forcing this policy on a licensee would upset the independent contractor status now enjoyed by many salespeople.

Finally, if this committee is serious about the requirement of errors and omissions insurance, we suggest you study proposals initiated by other states. In Kentucky, for example, a law has been proposed to issue errors and omissions

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policies to the licensee on a "blanket" coverage to include all real estate licensees in the state. This "blanket" coverage holds costs down to a minimum, while protecting the property buying public with a sound insurance policy.

In short, the Kansas Association of REALTORS supports the concept of a real estate recovery fund. The fund remains to be an inexpensive method to protect the public. If, however, this legislature thinks more protection is needed, then a careful study of the available insurance options would be in order.