

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at  
Chairperson

1:30 a.m./p.m. on March 26, 1986 in room 526S of the Capitol.

All members were present except:  
Representative Sprague

Committee staff present:

Lynda Hutfles, Secretary  
Mary Torrance, Revisor's Office

Conferees appearing before the committee:

Representative Guldner  
John Smith, Department of Revenue  
Representative O'Neal

The meeting was called to order by Chairman Miller.

Representative Roenbaugh made a motion, seconded by Representative Vancrum, to approve the minutes of the March 24 and March 25 meetings. The motion carried.

HB3086 - County hospitals; no fund warrants

Representative Guldner explained the bill which was requested by his county attorney and authorizes counties to issue no fund warrants for county hospitals subject to a 5% protest petition-election procedure.

Phil Elwood, Kansas Hospital Association, told the committee the language in this bill parrells KSA 80-2519 which is part of the district hospital law. District hospitals have the authority to issue no fund warrants.

Hearings were concluded on HB3086.

HB2864 - Registration of snowmobiles

Representative Guldner explained that Colorado has a registration for snowmobiles - \$10 in-state and \$30 out-of-state. Snowmobiles are not required to be registered in Kansas. Many people are taking snowmobiles into Colorado and are being ticketed for not being registered and are paying Colorado \$30. They would rather pay Kansas \$10 than give \$30 to Colorado when they are caught. This would be a voluntary registration.

John Smith, Department of Revenue, expressed his concerns about the definition of snowmobile and that it might be considered a motor vehicle and fall under the insurance law.

There was discussion concerning liability insurance.

Hearings were concluded on HB2864.

HB2846 - Juvenile records

Representative Goosen made a motion, seconded by Representative Roy, to report HB2845 favorable for passage.

Representative Goosen made a substitute motion, seconded by Representative Peterson, to change the language from the 100 year disclosure period to 70 years to conform with the language in the open records law. The motion carried.

Representative Goosen made a motion, seconded by Representative Walker, to report HB2846 favorably as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Federal & State Affairs,  
room 526S, Statehouse, at 1:30 a.m./p.m. on March 26, 1986.

HB3114 - Exceptions from liability; Tort Claim Act

Representative O'Neal explained that this bill is a sequel to a bill passed out of Labor & Industry at the request of Representative Braden (HB2891). This bill exempts anyone doing community service work from any claim for damages resulting from performance of the community service work. There were three options for addressing third-party liability and this bill includes the option creating immunity from third-party liability in community service work programs. See attachment A.

Representative O'Neal said he has discussed this bill with the Kansas Trial Lawyers and they have no problem with the bill and that third-party liability needs to be addressed.

Hearings were concluded on HB3114.

SB700 - Recovery of reparations for injuries caused by DUI.

Representative Aylward made a motion, seconded by Representative Goosen, to amend HB2927 (prohibits convicted persons from making a profit off their crime through publication of their "story") into SB700.

Representative Roy made a substitute motion, seconded by Representative Gjerstad, to amend HB2986 (which increases the likelihood of a victim recovering the full amount from a criminal) into SB700. The motion lost.

Representative Vancrum made a substitute motion, seconded by Representative Ramirez, to delete lines 38 and 39 and to amend HB2927 into SB700. The motion carried.

Representative Aylward made a motion, seconded by Representative Peterson, to report SB700 favorable as amended. The motion carried.

Representative Vancrum explained a proposed resolution urging the Kansas Supreme court to consider adoption of a court rule regulating the application and regulation of fees of all parties in civil litigation, including contingent fee contracts.

Representative Vancrum made a motion, seconded by Representative Peterson, to introduce this resolution as a committee bill. The motion carried.

SB538 - Real Estate recovery revolving fund

Representative Walker made a motion, seconded by Representative Sallee, to report SB538 favorable for passage. The motion carried.

The meeting was adjourned.



# **PERFORMANCE AUDIT REPORT**

## **Liability in Community Service Work Programs**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
March 1984**

ATTACHMENT A  
H. FLSA  
3/26/84

## Options for Addressing Third-Party Liability

**Creating immunity from third-party liability.** One option available is to eliminate third-party liability in community service work programs. The Legislature could amend the Tort Claims Act to grant an exception from liability for damages resulting from the performance of community service work ordered or approved by a district court or municipal court. K.S.A. 1983 Supp. 75-6104 currently lists seventeen paragraphs of exceptions, which are grants of immunity for specific governmental functions. The law would have to specify that all community service workers were to be considered government employees if private agencies which supervise community service workers were also to be exempted.

**Establishing Statewide third-party liability coverage.** The Legislature could amend State law to provide that a person sentenced to perform community service work will be considered a State employee for purposes of liability under the Tort Claims Act. The Legislature could also amend the law to provide that any such person be covered by insurance purchased by the Committee on Surety Bonds and Insurance. The Committee could then negotiate a Statewide contract that would provide general liability insurance covering all persons placed on community service.

A somewhat similar approach is being taken in Florida. In that program, adult offenders sentenced to perform community service work by a State court are considered employees of the State for purposes of third-party liability and workmen's compensation. However, Florida acts as a self-insurer for both types of insurance and does not purchase commercial insurance coverage for community service workers.

The cost of such insurance is difficult to estimate at this point. Little is known Statewide about the numbers of persons in community service work programs, the kinds of offenders who participate, the kinds of work performed, and the agencies that the work is being done for. To minimize risks and thereby hold down the cost of insuring the programs, the Legislature could consider establishing limitations on the kinds of work that would be covered. For example, work involving driving a vehicle might be excluded if the insurance coverage proved to be prohibitive. As with the options for providing workmen's compensation insurance, provisions could also be made for assessing the costs of such insurance to the offenders themselves and transferring the amounts to the State.

**Establishing a Statewide requirement for third-party liability coverage, but letting participating agencies obtain it on their own.** To ensure that liability is addressed as an issue, the Legislature could amend State law by requiring any agency that supervises offenders in community service work to provide a certain level of third-party liability coverage. The auditors' inquiries led them to conclude that a number of insurance companies would be interested in providing such coverage. As earlier sections of this report discussed, some agencies have already obtained such coverage or believe that the coverage for their volunteers and regular employees extends to those doing community service work as well.