

Approved

Thomas F. Walker
Date 4/8/87

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Representative Thomas F. Walker at
Chairperson

1:15 a.m./p.m. on April 8, 1987 in room 522-S of the Capitol.

All members were present except:

Representative Peterson
Representative Sebelius
Representative Sprague
Committee staff present:

Avis Swartzman - Revisor
Julian Efird - Legislative Research
Carolyn Rampey - Legislative Research
Mary Galligan - Legislative Research
Jackie Breymeyer - Secretary
Conferees appearing before the committee:

The meeting of the House Governmental Organization Committee was called to order by Chairman Walker. He told the Committee the Agenda for the meeting was to accept the Department of Revenue Subcommittee Report; to inform the Committee regarding HCR 5029 and to hear Representative Bowden with respect to a Scope Statement regarding water resources, wells, and water rights. (See Attachment 1 Scope Statement); (Attachment 2 HCR 5029); and (Attachment 3 Subcommittee Report).

Representative Brown spoke to the Subcommittee Report. The two additional recommendations contained in the report are; That motor carrier inspection and enforcement activities should be transferred to the Kansas Highway Patrol; and That the Legislature should authorize the Legislative Coordinating Council (LCC) to contract with an independent consultant to evaluate the Kansas Business Integrated Tax System (K-BITS). A report should be presented to the LCC prior to the 1988 Legislature with recommendations about whether to continue K-BITS). Several other comments pertaining to the report were made.

Representative Graeber moved to accept the Department of Revenue Subcommittee Report. Representative Weimer gave a second to the motion. The motion carried.

The Chairman asked if there was further discussion on the Subcommittee Report. As there was none, Representative Brown moved the adoption of the Department of Revenue Subcommittee Report. Representative Harder gave a second to the motion. The motion carried.

The Committee turned its attention to the Resolution concerning the Ports of Entry. Chairman Walker explained that when the report had been adopted by the Committee, it directed the Chairman to file the Resolution dealing with the Ports of Entry. This resolution was filed on the 7th of April. The Revisor was commended for her composition of the resolution.

The third item on the agenda was taken up. Representative Bowden explained the content of the Scope Statement. He stated that a request from the committee to request an audit pertaining to water resources and regulation of water well operations would have more weight than an individual request.

Representative Harder moved the committee request Post Audit to do an audit on water resources and water well operations. Representative Schauf gave a second to the motion. The motion carried.

The Chairman told the Committee that he had requested the Legislative Coordinating Council to direct an interim study of the State Library. Rep. Walker has talked with Dr. Scibetta with regard to other agencies in state government that might have the same problems with regard to impairment of health practitioners, not just the Board of Nursing. This would be an opportune time to look into this.

Representative Brown brought up HB 2547, Right to Know, dealing with the State Emergency Response Commission. She suggested this area be reviewed and some response by the agency be given to the committee at some future date.

The Chairman thanked the committee. The meeting was adjourned.

SCOPE STATEMENT

Regulation of Water Well Operations in Kansas

Drilling for groundwater carries with it the risk of polluting the underground aquifers that contain fresh and usable water. Following the proper procedures for drilling, operating, and plugging water wells minimizes the risk of pollution. State law places the responsibility for enforcing these procedures with the Kansas Department of Health and Environment. The Department monitors water well operations through a combination of licensure, reporting requirements, and inspections.

State law requires all water well contractors to obtain a license from the Department and to submit reports any time they construct, reconstruct, or plug water wells. Landowners constructing wells on their own property are also required to submit reports, but do not have to be licensed. Wells constructed by both types of well drillers are subject to inspection for compliance with State pollution control standards. Recently, legislative concerns have been raised about the effectiveness of the Department's enforcement activities, particularly with regard to unlicensed well drillers. An audit in this area would address the following questions:

- 1. What are the State's responsibilities for ensuring that water wells are properly constructed to prevent water pollution?** The auditors would review statutes, rules, regulations, and the State Water Plan, and interview State officials to determine what agencies are responsible for enforcing water well requirements, and what procedures those agencies have established for this purpose.
- 2. Are the State's procedures for enforcing water well requirements effective?** The auditors would determine the number of water wells that were constructed and reported to the Department of Health and Environment during fiscal year 1986. To the extent possible, they would determine the extent to which wells are drilled with a permit. For a sample of wells, the auditors would review all available records to determine whether well drillers complied with applicable requirements, and whether the Department followed its established procedures. For a sample of cases, the auditors would review results of routine on-site inspections and written complaints and investigations relating to improper water well operations, including the installation and use of check valves, and would determine how many of those cases involved wells not reported to the Department. They would review and analyze the actions taken by the Department in cases where violations were identified, including any corrective actions, fines, and penalties imposed, and the agency's follow-up efforts to ensure that the problems have been solved. In addition, for a small sample of threatened municipal water supplies, the auditors would review available records to determine the source of the contamination.
- 3. How can the State's enforcement efforts be improved?** The auditors would review applicable literature and the practices of other states, and interview additional State officials as needed. Based on these sources and the findings from the first two questions, the auditors would determine what options might be available to the State to further protect surface water and groundwater from pollution related to water well operations.

Estimated completion time: 8 weeks

Draft

SCOPE STATEMENT

State Management of Water Resources

A number of agencies play a role in the management of the State's water resources. The Kansas Water Office and Kansas Water Authority are responsible for the State Water Plan and administering the sale of water from State-owned storage in federal reservoirs. The Division of Water Resources is responsible for appropriating water rights, approving and inspecting dams and levees, and overseeing local water-related districts. The Department of Health and Environment enforces water quality standards. The Corporation Commission protects water supplies through the regulation of oil and gas wells. Finally, the State Conservation Commission administers the Conservation Districts Law to protect the State's soil and water resources.

Legislative concerns have been raised about how well these agencies coordinate their activities and whether any duplication exists. An audit in this area would address the following questions:

- 1. What State agencies are responsible for managing the State's water resources and what are the roles of each?** The auditors would review statutes, rules and regulations. They would review budget documents and legislative documents as appropriate. They would interview officials of each State agency involved in water resource activities. They would also review other agency documents as needed.
- 2. To what extent do these agencies coordinate their activities and is there any duplication of effort?** The auditors would review all pertinent data to identify instances of coordination. They would review the State Water Plan to determine required coordination activities. They would also interview officials from each agency to determine how they coordinate their work. From all of the data reviewed, the auditors would identify areas of duplication in State operations. For a sample of activities where duplication appears to exist, the auditors would review the role played by each agency to determine if actual duplication does exist. They would review a sample of complaints to each agency and determine how the complaint process works, and the degree of coordination that exists in responding to complaints. In addition, the auditors would survey surrounding states to determine other ways to organize water resource management activities.

Estimated completion time: 5 to 6 weeks

Draft

SCOPE STATEMENT

Effectiveness of the Division of Water Resources' Appropriation of Water Rights

K.S.A 82a-701 et. seq. makes the Division of Water Resources of the Kansas Board of Agriculture responsible for issuing permits appropriating water for a beneficial use. The statutes also make provisions for diverting water and abandoning water rights, and for resolving conflicts in water use.

Because of the importance of water to the Kansas economy, legislative concerns have arisen about the appropriation of water rights, whether the Division adequately regulates the appropriation of water rights, and whether improvements are needed to make the process work more effectively. An audit in this area would address the following questions:

- 1. How does the Division of Water Resources appropriate water rights?** The auditors would review statutes, rules, and regulations. They would review Division policy manuals to determine how the appropriation process works, and would interview agency officials. For the past three years, they would review agency records and other documents to determine the number of applications processed, permits issued, and fees collected.
- 2. Does the Division adequately regulate the appropriation of water rights?** The auditors would review agency field inspection documents on water use and the perfection of water rights. They would identify problems in water usage and the perfection of water rights and determine actions taken to resolve those problems. They would also review the most recent annual reports on water use from permit holders to determine if reporting requirements are being followed and if the reports are accurately reflecting water usage. The auditors would pay particular attention to those water users who have water meters. The auditors would review agency documents to determine if any problems in processing applications for water rights exist. They would review a sample of complaints concerning water conflicts. Finally, they would interview a sample of water users to determine their satisfaction with the Division's regulatory activities.
- 3. What can be done to improve the appropriation process?** The auditors would gather information from other states about water appropriation. They would also obtain pertinent information from the Council of State Governments and the National Conference on State Legislatures. They would interview agency officials and would survey water rights permit holders to determine what improvements are needed.

Estimated completion time: 4 to 8 weeks

HOUSE CONCURRENT RESOLUTION NO. _____

By Committee on Governmental Organization

A CONCURRENT RESOLUTION urging the Secretary of Revenue to effectuate a plan for closing certain motor carrier inspection stations.

WHEREAS, Kansas, at the crossroads of the nation with two major interstate systems traversing the state, experiences a high volume of both intrastate and interstate commercial motor carriers; and

WHEREAS, The commercial motor carrier industry is faced with the requirement of complying with an essentially separate set of regulatory requirements and fee structures in each state and the means for coping therewith is the trip permitting process; and

WHEREAS, The primary responsibility for regulating the commercial motor carrier industry is shared by the department of revenue, the department of transportation, the state corporation commission and the Kansas highway patrol; the four state agencies are charged by statute to cooperate and to coordinate their actions and effort for the proper and efficient enforcement of laws relating to motor carriers of passengers and property for compensation; and

WHEREAS, Trip permits which a commercial motor carrier must have to legally operate in and through Kansas include vehicle registration and fuel use tax (administered by the department of revenue), operating authority (administered by the state corporation commission), and size and weight (administered by the department of transportation); and

WHEREAS, The activities of the department of revenue with respect to regulation of the commercial motor carrier industry include the maintenance of motor carrier inspection stations where trip permits may be purchased; and

WHEREAS, In years past, the motor carrier inspection

stations offered a necessary service, that of issuing the permits required by the state of commercial motor carriers; and

WHEREAS, The state now provides, as alternatives to requiring commercial motor carriers to stop at motor carrier inspection stations for trip permits upon entry into the state, for annual registration under the international registration plan and for issuance of other required permits through transmitter services or through the central permit office; and

WHEREAS, Because the alternatives to stopping at motor carrier inspection stations upon entering a state are much preferred by the motor carrier industry, the use of the stations has declined and their continued maintenance is questionable from both a cost effective budgetary perspective and from the perspective of need; and

WHEREAS, The department of revenue will establish, as of May 1, 1987, a "one-stop-shop" which will provide the commercial motor carrier one reference point for all permits as well as a central location where questions can be answered; this action is being taken in cooperation with the state corporation commission and the department of transportation and will unquestionably cause a further decline in the use of the motor carrier inspection stations and a continued loss of revenue to the state; and

WHEREAS, The secretary of revenue, who is charged by law with the responsibility for determining the number of permanent motor carrier inspection stations which are necessary to enforce the laws of this state relating to the regulation of commercial motor carriers, has statutory authority to close weight stations, ports of entry and registration stations in conjunction with and for the purposes of consolidation of all the functions of all of the closed weight stations, ports of entry and registration stations at single locations for the combined performance of all such functions at such locations: Now, therefore,

Be it resolved by the House of Representatives of the State

of Kansas, the Senate concurring therein: That the Legislature, in recognition of the facts contained in the preamble of this resolution and being fully aware that the Secretary of Revenue has developed a plan under which all non-scale motor carrier inspection stations, with the exceptions of those located at Kansas City, Belleville, Liberal and Fort Scott, could be closed without disadvantaging the motor carrier regulation system and that implementation of the plan would result in cost savings which could be used to improve operational efficiency of the system, hereby urges the Secretary to effectuate the plan as soon as practicably feasible; and

Be it further resolved: That the Secretary of State is hereby directed to transmit enrolled copies of this resolution to the Governor, the Secretary of Revenue, the Secretary of Transportation, the Chairperson of the State Corporation Commission and the Superintendent of the Kansas Highway Patrol.

DRAFT

HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

SUBCOMMITTEE ON THE DEPARTMENT OF REVENUE

Final Report And Recommendations

The Subcommittee makes two additional recommendations in conjunction with its sunset review of the Department of Revenue:

1. That motor carrier inspection and enforcement activities should be transferred to the Kansas Highway Patrol.
2. That the Legislature should authorize the Legislative Coordinating Council (LCC) to contract with an independent consultant to evaluate the Kansas Business Integrated Tax System (K-BITS). A report should be presented to the LCC prior to the 1988 Legislature with recommendations about whether to continue K-BITS.

The agency should continue implementing transient guest tax, but all work should cease on other applications of K-BITS, pending final determination of its future.

Background

The Subcommittee on the Department of Revenue reviewed many programs and activities of the agency during the sunset reauthorized process of the 1987 Session. Two areas in particular, motor carrier inspection and business tax processing, are addressed in this final report. Other recommendations are found in the Subcommittee's report of March 6, 1987, to the House Committee.

MOTOR CARRIER INSPECTION

The agency presented an issue paper on motor carrier inspection stations and the Motor Carrier Inspection Bureau's role. Two questions were raised in that document:

1. Should the Department of Revenue continue the operation of any/all motor carrier inspection stations?
2. Should the responsibilities of the Motor Carrier Inspection Bureau be transferred to the Highway Patrol?

MCI Stations

In regard to the former question about operation of MCI stations, the agency proposed to close 17 existing stations, terminate 51 employees, and generate savings of \$971,844 annually. The rationale presented by the agency centered on the decline of revenues generated at the 17 stations and the availability of a central permit office to provide the same services from one location. While total permit revenues fell from \$3.9 million in FY 1981 to \$2.3 million in FY 1986, annual costs of operating the stations have increased. Operating expenses at MCI stations in FY 1986 were almost \$1 million greater than revenues generated at the MCI stations, according to the agency.

ATTACHMENT 3
G.O. COMMITTEE
4/08/87

The Subcommittee previously recommended that a resolution be introduced urging the Secretary of Revenue to exercise administrative authority and to close the MCI stations which were not cost-effective.

MCI Transfer to Highway Patrol

In regard to transferring the inspection and enforcement functions to the Highway Patrol, the Subcommittee reviewed two additional issue papers provided by the agency and heard testimony from the Superintendent of the Highway Patrol who favored the shift in activities.

The Subcommittee recommends that certain functions should not be transferred to the Highway Patrol and that further study is needed to determine if the Central Permit Office and the Operating Authority Unit should remain in the Department of Revenue or should be attached to the State Corporation Commission which regulates motor carriers.

The Subcommittee recommends that the MCI functions related to enforcement activities should be transferred to the Highway Patrol. Since 1985, the MCI emphasis has shifted to increased enforcement. MCI staff involved in enforcement activities are required to receive law enforcement training. The Highway Patrol is the administering entity for the federal Motor Carrier Safety Assistance Program. Consolidation of motor carrier enforcement in one agency would increase the effectiveness and efficiency in conducting these activities.

Of the 211.0 FTE positions authorized in FY 1987 for the Motor Carrier Inspection Bureau, approximately 30.0 FTE positions from the Central Permit Office and Operating Authority Unit would not be transferred to the Highway Patrol. The 181.0 FTE positions to be shifted include 12.0 administrative staff, 50.0 fixed and 38.0 mobile scale enforcement staff, and 83.0 motor carrier station (ports of entry) staff.

The question of closing 17 sites and reducing 51.0 FTE positions of 83.0 FTE positions assigned to the ports should be addressed as part of the transfer.

KANSAS BUSINESS INTEGRATED TAX SYSTEM

The Subcommittee's concern with several areas, such as a proposed Division of Collections and the handling of business taxes, as well as the agency's failure to implement K-BITS, resulted in the March 6, 1987, recommendation of extending for two years the Office of Secretary and the Department of Revenue, subject to abolition under the Kansas Sunset Act.

When the Secretary and Department of Revenue were scheduled for abolition four years ago during the initial sunset review, many of the proposed solutions to problems identified by a performance audit of the tax collection system were supposed to be implemented with K-BITS. A four year extension was approved by the 1983 Legislature in order to review the agency when K-BITS was in operation. However, when it became apparent that the agency could not implement even one tax under K-BITS by the 1987 Session, an audit of K-BITS was requested. That audit became available March 23, 1987.

History of K-BITS

Since FY 1980, the Department of Revenue has been developing K-BITS. Legislative concerns have been raised in 1983 and 1987 about the delays in development and implementation of K-BITS. The Department initially estimated that the integrated tax system could be completed by the end of FY 1983 at a cost of \$1.6 million.

During the 1983 Session, funding for consultant's services during Phase IV of K-BITS was deleted from the agency's budget by the Senate Ways and Means Committee. Legislative concern about delays in the scheduled completion of Phase III of the project and the agency's failure to meet self-imposed deadlines led to the deletion of funds, pending a review of K-BITS by the Secretary of Administration and the Division of Information Systems and Computing (DISC).

Based on the DISC recommendations of April 5, 1983, funding was restored by the Legislature, subject to State Finance Council release, to pay a consultant to assist the agency with Phase IV of K-BITS. In a March 31, 1983, status report from the Department, it was estimated that portions of the system to operate just the sales and transient guest taxes would be completed in FY 1984, while other taxes would be completed in FY 1985. Total development costs through FY 1985 were estimated slightly under \$2.7 million by the agency's status report.

The final payment for Phase III was made by the agency in June 1983, even though the agency's review of the consultant work was not complete. The Phase IV contract called for a consultant to use the design specifications developed by the Phase III consultant in order to write and test programs which would implement the parts of the system for transient guest tax and sales tax processing. The end product of Phase IV was to be a system ready to process the two taxes.

The State Finance Council was requested on September 13, 1983, to approve FY 1984 expenditures of \$423,000 to pay Phase IV consultants. An additional \$272,000 for consultant fees was anticipated in FY 1985 for the project. In the agency's request of September 10, 1983, it was indicated that expenditures would be used to secure project management and data base expertise, as well as supplemental programming resources, to code and test approximately 450 programs and modules to process two taxes under K-BITS.

Post Audit Findings

According to the Post Audit report of March 1987, within a week after beginning Phase IV of the project, Alexander Grant and Company indicated that its programmers could not use the design specifications produced in Phase III by Deloitte, Haskins, and Sells because they were flawed and incomplete.

Well into the FY 1984 contract period, Alexander Grant and Company expressed concern that it was using all its scheduled time and resources to help the Department correct the design specifications which were supposed to have been developed in Phase III. The Department agreed to modify the Phase IV contract based on the delays caused by the need to correct or rewrite most of the detailed design specifications developed in Phase III by Deloitte, Haskins, and Sells.

At the conclusion of the Phase IV contract, the system was not able to process either transient guest tax or sales tax. The contractor stopped working on the project on June 30, 1985. Since that time, the Department

has been working to complete parts of the system needed to process the transient guest tax. Staff also have continued reviewing and correcting design specifications that were incomplete. Since July 1985, staff have spent nearly 24,000 hours working on K-BITS.

Since January 1986 the Department has been testing parts of the system by processing historical returns from transient guest tax and comparing those results with the results from the manual system. As of March 1987 the Secretary indicated that the agency was ready to begin processing current transient guest tax returns through K-BITS and for a period of about six months, simultaneously process transient guest tax returns through the old manual system to verify that the automated system is functioning properly.

In a memorandum dated March 23, 1987, to the Chairperson of the House Committee, the Secretary estimated implementation of sales tax would be completed between December 30, 1988, and June 30, 1989, if certain assumptions identified in the memo were applied.

Post Audit Recommendations

The audit recommends that the Department continue to implement the transient guest tax but halt work on the rest of the system. The audit also recommends that the Department reassess its business tax processing objectives and the ability of K-BITS to meet those objectives.

Following the reassessment, the Department should develop a long-range plan for upgrading the State's tax processing capabilities, including such things as cost estimates, deadlines, provisions for a full-time project manager, adequate resources, and continuity in personnel.

Subcommittee Recommendation

The Legislature should authorize the Legislative Coordinating Council (LCC) to contract with an independent consultant to evaluate the Kansas Business Integrated Tax System (K-BITS). A report should be presented to the LCC prior to the 1988 Legislature with recommendations about whether to continue K-BITS.

The agency should continue implementing transient guest tax, but all work should cease on other applications of K-BITS, pending final determination of its future.