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Date

2/5/87

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~pm~~ on January 14, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Strick was excused.

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee.

Conferees appearing before the committee:

The Chairman welcomed those members returning, as well as the new member of the Committee, Senator Richard "Dick" Bond. In fact, he welcomed everyone present, and introduced the staff.

The Committee's attention was called to a memorandum concerning a meeting that the House Committee on Federal and State Affairs will have this afternoon in the Old Supreme Court Chambers, Room 313-S. The Chairman encouraged any who could to attend this meeting and briefing on the Lottery by Secretary of Revenue Harley Duncan. The Chairman prefers not to have another lengthy session from the Secretary.

Staff reviewed the work of the Special Interim Committee on Federal and State Affairs. The Committee was directed to study 6 proposals during the 1986 interim: No. 11, Sale of Cemetery and Funeral Merchandise; No. 12, Zoning for Manufactured Housing; No. 13, State Building Security; No. 14, Implementing Legislation for Parimutuel Wagering and a State Lottery; No. 15, Licensure to Carry Firearms; and No. 16, Recreation Commissions. See Attachment #1 of these Minutes.

The Chairman made miscellaneous announcements and suggested other items for the Committee to think about.

The meeting was adjourned at noon.

1/14/87
Attachment #1

THE SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS WAS DIRECTED TO STUDY 6 PROPOSALS DURING THE 1986 INTERIM. THE PROPOSALS WERE:

NO. 11--SALE OF CEMETERY AND FUNERAL MERCHANDISE

NO. 12--ZONING FOR MANUFACTURED HOUSING

NO. 13--STATE BUILDING SECURITY

NO. 14--IMPLEMENTING LEGISLATION FOR PARIMUTUEL WAGERING AND A STATE LOTTERY

NO. 15--LICENSURE TO CARRY FIREARMS

NO. 16--RECREATION COMMISSIONS

ALL OF THE REPORTS ARE PRINTED IN THE VOLUME PUBLISHED BY THE RESEARCH DEPARTMENT EXCEPT THAT FOR PARIMUTUEL WAGERING AND THE STATE LOTTERY. THAT REPORT WAS PRINTED IN THE SENATE JOURNAL MONDAY BECAUSE THE COMMITTEE COMPLETED ITS WORK ON THAT PROPOSAL AFTER THE DECEMBER 1st DEADLINE FOR SUBMISSION OF REPORTS.

I WILL BRIEFLY REVIEW EACH OF THE REPORTS AND THE RECOMMENDATIONS.

NO. 11--SALE OF CEMETERY AND FUNERAL MERCHANDISE--

THE COMMITTEE WAS DIRECTED TO REVIEW THE STATUTES REGULATING THE SALE OF FUNERAL SERVICES AND MERCHANDISE AND RECOMMEND ANY NECESSARY CHANGES TO ENSURE PROTECTION OF CONSUMERS AND TO PROVIDE AN EQUITABLE, COMPETITIVE ENVIRONMENT FOR THE INDUSTRY.

THE DISCUSSION OF THE PROPOSAL CENTERED AROUND S.B. 499 THAT WAS PASSED DURING THE 1986 SESSION OF THE LEGISLATURE, BUT VETOED BY THE GOVERNOR. THE BILL WOULD HAVE ADDED CASKETS TO THE LIST OF ITEMS THAT ARE NOT CONSIDERED CEMETERY MERCHANDISE UNDER THE CEMETERY MERCHANDISE ACT. BY DOING SO, THE BILL WOULD HAVE PLACED THE SALE OF CASKETS SOLELY UNDER THE PROVISIONS OF THE PRE-NEED FUNERAL LAW WHICH REQUIRES THAT 100% OF THE AMOUNT PAID UNDER A PRE-NEED FUNERAL CONTRACT BE PLACED IN TRUST.

THE COMMITTEE HELD A HEARING ON THE PROPOSAL AT WHICH THE KANSAS FUNERAL DIRECTOR'S ASSOCIATION, THE AMERICAN ASSOCIATION OF RETIRED PERSONS, AND THE KANSAS CEMETERY ASSOCIATION APPEARED.

IN RESPONSE TO TESTIMONY PROVIDED AT THE HEARING, THE COMMITTEE REQUESTED AN ATTORNEY GENERAL'S OPINION OF A CONTRACT USED IN PRE-NEED FUNERAL SALES. THE TESTIMONY PROVIDED AT THE MEETING IS SUMMARIZED IN THE REPORT.

Attachment #1
1-14-87 FSA

THE COMMITTEE RECOMMENDED THAT SB 11 BE INTRODUCED. THE BILL INCLUDES THE PROVISIONS OF 1986 SB 499, PLUS A PROVISION AUTHORIZING THE SECRETARY OF STATE TO AUDIT ENTITIES SELLING PRE-NEED FUNERAL SERVICES OR MERCHANDISE. THE AUDIT REQUIREMENTS AND PROCEDURES WOULD BE THE SAME AS THOSE IMPOSED ON CEMETERY CORPORATIONS UNDER THE CEMETERY MERCHANDISE ACT. THE BILL WAS REFERRED TO THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

PROPOSAL NO. 12--ZONING FOR MANUFACTURED HOUSING

THE COMMITTEE WAS DIRECTED TO REVIEW 1986 HB 2862 AND DETERMINE THE NEED FOR LEGISLATION TO PROHIBIT ZONING ORDINANCES THAT DISCRIMINATE AGAINST MANUFACTURED HOUSING.

H.B. 2862 WOULD HAVE AMENDED KSA 19-2938 TO ADD SPECIFICITY TO THE PROHIBITION OF ZONING REGULATIONS THAT ARBITRARILY EXCLUDE MANUFACTURED HOUSING. THE BILL WOULD HAVE PROHIBITED THE ADOPTION OF ZONING REGULATIONS OR DEVELOPMENT STANDARDS THAT EXCLUDE MANUFACTURED HOMES, MODULAR HOMES OR OTHER PREFABRICATED HOUSING FROM ANY SINGLE FAMILY RESIDENTIAL ZONE IN A COUNTY. THE BUILDINGS WOULD HAVE TO BE INSTALLED ON A FOUNDATION AND THE MANUFACTURED HOME WOULD HAVE TO BE CERTIFIED UNDER THE NATIONAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS ACT. THE BILL WOULD HAVE ALLOWED THE COUNTY COMMISSIONERS OR PLANNING BOARD OF A COUNTY TO SUBJECT THE MANUFACTURED OR PREFABRICATED HOUSING TO THE SAME DEVELOPMENT STANDARDS THAT APPLY TO SITE-BUILD HOUSING ON THE SAME LOT. ARCHITECTURAL REQUIREMENTS IMPOSED IN MANUFACTURED HOUSING WOULD HAVE BEEN LIMITED TO THE ROOFING AND SIDING MATERIAL.

THE COMMITTEE RECEIVED TESTIMONY FROM THE KANSAS MANUFACTURED HOUSING INSTITUTE, THE LEAGUE OF KANSAS MUNICIPALITIES, JOHNSON AND SEDGWICK COUNTIES AND THE CITY OF WICHITA, THE HOMEBUILDERS ASSOCIATION OF KANSAS, THE KANSAS ASSOCIATION OF REALTORS, AND THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS. ONLY THE MANUFACTURED HOUSING INSTITUTE SPOKE IN FAVOR OF THE BILL. THE TESTIMONY IS SUMMARIZED IN THE COMMITTEE REPORT.

THE COMMITTEE DID NOT RECOMMEND THAT ANY ACTION BE TAKEN ON THIS ISSUE.

PROPOSAL NO. 13--STATE BUILDING SECURITY

THE COMMITTEE WAS DIRECTED TO EXAMINE AND MAKE RECOMMENDATIONS FOR IMPROVEMENT OF SECURITY, IF NECESSARY, FOR THE CAPITOL COMPLEX, CEDAR CREST, ARMORIES AND OTHER STATE BUILDINGS.

SECURITY FOR THE STATE BUILDINGS THAT COMPRISE THE CAPITOL COMPLEX IN TOPEKA AND THE GOVERNOR'S RESIDENCE, CEDAR CREST, IS PROVIDED BY THE CAPITOL AREA SECURITY PATROL, WHICH HAS BEEN PART OF THE HIGHWAY PATROL SINCE 1976. PRIOR TO THAT TIME, THE SECURITY PATROL WAS PART OF THE DEPARTMENT OF ADMINISTRATION.

THE COMMITTEE RECEIVED TESTIMONY FROM THE KANSAS HIGHWAY PATROL, THE ADJUTANT GENERAL'S OFFICE, THE JUDICIAL BRANCH AND THE KANSAS STATE SCHOOL FOR THE VISUALLY HANDICAPPED. THE TESTIMONY IS SUMMARIZED IN THE COMMITTEE REPORT.

THE COMMITTEE CONCLUDED THAT MANY IMPROVEMENTS COULD BE MADE TO THE SECURITY IN AND AROUND STATE BUILDINGS AND FACILITIES AND THAT IMPROVEMENTS THAN CAN BE IMPLEMENTED WITHOUT SIGNIFICANT FISCAL IMPACT ARE BEING MADE IN SOME INSTANCES. THE COMMITTEE ENCOURAGES AGENCIES TO CONTINUE ASSESSING THEIR SECURITY SYSTEMS AND MAKING IMPROVEMENTS AS NEEDS ARE IDENTIFIED. THE COMMITTEE SPECIFICALLY RECOMMENDED THAT THE OFFICE OF THE DISCIPLINARY ADMINISTRATOR IN THE JUDICIAL CENTER BE EXAMINED TO DETERMINE ITS SECURITY NEEDS.

THE COMMITTEE RECOMMENDED THAT AGENCIES IMPLEMENT THOSE SECURITY MEASURES THAT REQUIRE LITTLE OR NO EXPENDITURE OF FUNDS. IN CONNECTION WITH THIS RECOMMENDATION, THE COMMITTEE REQUESTED THAT AGENCIES REPORT TO THE CHAIRMAN IN REGARD TO SECURITY IMPROVEMENTS THAT HAVE BEEN IMPLEMENTED AT LITTLE OR NO COST. THE COMMITTEE FURTHER RECOMMENDED THAT SECURITY IMPROVEMENTS BE MADE A HIGH PRIORITY IN THE BUDGET REQUESTS SUBMITTED FOR FISCAL YEAR 1988. FINALLY, THE COMMITTEE RECOMMENDED THAT THE 1987 LEGISLATURE CAREFULLY CONSIDER THOSE REQUESTS AND, TO THE EXTENT POSSIBLE, MAKE FUNDING AVAILABLE TO AGENCIES FOR SECURITY IMPROVEMENTS.

DURING ITS CONSIDERATION OF THIS PROPOSAL, THE COMMITTEE BECAME AWARE OF THE POTENTIAL RISKS INVOLVED IN DETAILED DISCUSSION OF SECURITY MATTERS IN A PUBLIC FORUM. THEREFORE, THE COMMITTEE RECOMMENDED THAT THE LEGISLATURE CONSIDER EXEMPTING SUCH DISCUSSIONS FROM THE PROVISIONS OF THE OPEN MEETINGS ACT.

NO BILLS WERE RECOMMENDED IN THIS COMMITTEE REPORT.

PROPOSAL NO 14--IMPLEMENTING LEGISLATION FOR PARIMUTUEL WAGERING AND A STATE LOTTERY

THE COMMITTEE WAS DIRECTED TO RECOMMEND LEGISLATION NECESSARY TO IMPLEMENT THE PROVISIONS OF THE CONSTITUTIONAL AMENDMENTS LEGALIZING PARIMUTUEL WAGERING AND A STATE LOTTERY, IF APPROVED IN THE 1986 GENERAL ELECTION.

THE COMMITTEE BEGAN CONSIDERATION OF THIS PROPOSAL AFTER APPROVAL OF THE RESOLUTIONS IN THE NOVEMBER ELECTION.

THE COMMITTEE RECEIVED TESTIMONY AND A DRAFT PARIMUTUEL WAGERING BILL FROM THE STATE TASK FORCE ON PARIMUTUEL WHICH HAD BEEN APPOINTED BY THE GOVERNOR TO WORK DURING THE SUMMER AND FALL TO DEVELOP RECOMMENDATIONS FOR THE REGULATION OF RACING AND BETTING. THE NINE-MEMBER TASK FORCE WAS CHAIRED BY DR. JAMES COFFMAN, DEAN OF THE VETERINARY MEDICAL SCHOOL AT KANSAS STATE UNIVERSITY. THE MEMBERS OF THE TASK FORCE WERE MR. AL BECKER OF KANSAS CITY, MS. HELEN TEICHGRAEBER OF EUREKA, DR. AL BISSING OF WICHITA AND MR. KEITH DILLION OF OLATHE. LEGISLATORS APPOINTED TO THE TASK FORCE WERE REP. REX CROWELL, SENATOR ED REILLY, SENATOR JACK STEINEGER, AND REPRESENTATIVE GEORGE TEAGARDEN.

THE COMMITTEE MADE SOME AMENDMENTS TO THE DRAFT BILL PREPARED BY THE TASKFORCE. THE MAJOR PROVISIONS OF THE TASK FORCE RECOMMENDATION AND THE AMENDMENTS MADE BY THE COMMITTEE ARE SUMMARIZED IN THE COMMITTEE REPORT. THE COMMITTEE'S RECOMMENDATION IS CONTAINED IN HB 2044 WHICH HAS BEEN REFERRED TO THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

CONSIDERATION OF IMPLEMENTING LEGISLATION FOR THE STATE LOTTERY BEGAN WITH A REVIEW OF RECOMMENDATIONS PREPARED BY THE DEPARTMENT OF REVENUE. THAT PROPOSAL HAD BE REVIEWED DURING THE SUMMER AND FALL BY VENDORS AND OTHERS INTERESTED IN THE LOTTERY. SEVERAL CONFEREES APPEARED IN GENERAL SUPPORT OF THE DEPARTMENTS PROPOSAL.

THE COMMITTEE MADE SOME AMENDMENTS TO THE PROPOSAL AND THOSE CHANGES ARE INCORPORATED INTO HB 2043 WHICH WAS REFERRED TO THE HOUSE COMMITTEE ON

FEDERAL AND STATE AFFAIRS. THAT COMMITTEE HAS SCHEDULED A BRIEFING ON THE BILL BY SECRETARY DUNCAN TODAY AT 1:30 IN THE OLD SUPREME COURT ROOM.

PROPOSAL NO. 15 LICENSURE TO CARRY FIREARMS

THE COMMITTEE WAS DIRECTED TO REVIEW PROVISIONS OF 1986 HB 2966 AND MAKE RECOMMENDATIONS REGARDING THE NEED FOR LICENSING OF INDIVIDUALS WHO CARRY FIREARMS.

THE BILL WOULD HAVE AUTHORIZED COUNTY SHERIFFS TO ISSUE LICENSES TO CARRY CONCEALED FIREARMS TO PERSONS WHO COULD PROVE TO BE OF GOOD MORAL CHARACTER AND HAVE GOOD CAUSE TO POSSESS A LICENSE. EACH COUNTY COMMISSION WOULD HAVE SET THE LICENSE FEE AT THE AMOUNT ESTIMATED TO PROVIDE FOR ADMINISTRATION OF THE LAW, BUT THE INITIAL ISSUANCE FEE COULD NOT EXCEED \$10 AND THE RENEWAL FEE COULD NOT EXCEED \$2.50. FEES COLLECTED WOULD HAVE BEEN DEPOSITED IN THE COUNTY GENERAL FUND. THE BILL WOULD HAVE LIMITED THE CIVIL AND CRIMINAL LIABILITY OF THE SHERIFF IMPLEMENTING THE LAW.

THE BILL WOULD HAVE SUBJECTED ON-DUTY WATCHMEN, LICENSED HUNTERS OR FISHERMEN, AND ON-DUTY CORPORATE OR RAILROAD DETECTIVES OR SPECIAL AGENTS TO THE LICENSING REQUIREMENT. UNDER EXISTING LAW THOSE INDIVIDUALS MAY CARRY CONCEALED FIREARMS WHILE ENGAGED IN THE PERFORMANCE OF THEIR DUTIES. LICENSED PRIVATE DETECTIVES MUST HAVE A PERMIT ISSUED BY THE ATTORNEY GENERAL IN ORDER TO LEGALLY CARRY A GUN.

THE EXISTING STATUTE, KSA 21-4201, MAKES IT ILLEGAL TO KNOWINGLY CARRY " ANY PISTOL, REVOLVER OR OTHER FIREARM CONCEALED ON ONE'S PERSON EXCEPT WHEN ON THE PERSON'S LAND OR IN THE PERSONS ABODE OR FIXED PLACE OF BUSINESS." IN GENERAL, THE FOLLOWING PERSONS ARE EXEMPT FROM THE PROHIBITION AGAINST CARRYING A CONCEALED FIREARM: LAW ENFORCEMENT OFFICERS; JAIL AND PRISON SECURITY PERSONNEL, MEMBERS OF THE MILITARY OR NATIONAL GUARD; ON-DUTY WATCHMEN, LICENSED PRIVATE DETECTIVES AND CORPORATE OR RAILROAD DETECTIVES AND SPECIAL AGENTS; LICENSED HUNTERS OR FISHERMEN; AND THE FIRE MARSHAL, HIS DEPUTIES, AND AUTHORIZED MEMBERS OF FIRE DEPARTMENTS.

SOME CITIES IN KANSAS, INCLUDING 6 OF THE 20 LARGEST, HAVE ORDINANCES THAT PROHIBIT CARRYING UNCONCEALED FIREARMS. THE SIX CITIES ARE KANSAS CITY, EMPORIA, LENEXA, SHAWNEE, TOPEKA AND WICHITA. SUCH ORDINANCES ARE MORE STRINGENT THAN THE STATE LAW, AND IN THE OPINIONS OF SOME OF THE CONFEREES, CAUSE DIFFICULTIES FOR LAW ENFORCEMENT PERSONNEL AND INDIVIDUALS WHO FEEL THE NEED TO CARRY A GUN.

THE COMMITTEE HELD A HEARING ON THE PROPOSAL AND RECEIVED TESTIMONY IN FAVOR OF A LICENSING PROCEDURE FROM: THE SHERIFFS OF WYANDOTTE AND SHAWNEE COUNTIES, THE CHIEF OF POLICE OF ROELAND PARK AND BAIL-BONDSMEN FROM JOHNSON AND WYANDOTTE COUNTIES. THE ATTORNEY GENERAL'S OFFICE AND THE KANSAS SHERIFF'S ASSOCIATION OPPOSED A LICENSURE LAW. THE TESTIMONY IS SUMMARIZED IN THE COMMITTEE REPORT.

THE COMMITTEE RECOMMENDED A FIREARMS LICENSURE BILL, SB 38 WHICH WAS REFERRED TO THIS COMMITTEE. THE BILL WOULD GIVE THE ATTORNEY GENERAL AUTHORITY TO ISSUE LICENSES TO CARRY CONCEALED FIREARMS TO QUALIFIED

INDIVIDUALS WHO HAVE A DEMONSTRATED NEED TO CARRY A WEAPON. APPLICATION FOR THE LICENSE WOULD BE MADE THROUGH COUNTY SHERIFFS WHO WOULD BE AUTHORIZED TO REJECT APPLICATIONS FOR SPECIFIC REASONS. THE APPLICANT WOULD HAVE TO MEET THE FIREARMS TRAINING REQUIREMENTS ESTABLISHED FOR LICENSED PRIVATE INVESTIGATORS. THE ATTORNEY GENERAL WOULD BE AUTHORIZED TO ISSUE RULES AND REGULATIONS TO IMPLEMENT THE LICENSURE REQUIREMENTS.

PROPOSAL NO. 16 -- RECREATION COMMISSIONS

THE COMMITTEE WAS DIRECTED TO REVIEW STATUTES REGULATING RECREATION COMMISSIONS AND PROPOSE ANY NEEDED REVISIONS THEREOF.

A SUBCOMMITTEE WAS ASSIGNED TO REVIEW THE STATUTES AND DEVELOP RECOMMENDATIONS TO BE PRESENTED TO THE FULL COMMITTEE. THE SUBCOMMITTEE WAS CHAIRED BY REP. ELIZABETH BAKER. THE MEMBERS WERE REPRESENTATIVES ERNE, LONG, AND LOVE, AND SENATORS VIDRICKSEN, MARTIN, AND EHRlich. THE SUBCOMMITTEE HELD A HEARING TO DETERMINE THE PROBLEMS WITH THE EXISTING STATUTE, CONDUCTED A SURVEY OF THE RECREATION COMMISSIONS CURRENTLY IN EXISTENCE, DEVELOPED A DRAFT BILL THAT WOULD RECODIFY THE EXISTING STATUTE AND HELD A HEARING ON THAT PROPOSAL.

AT THE HEARINGS THE SUBCOMMITTEE RECEIVED TESTIMONY FROM THE KANSAS ASSOCIATION OF SCHOOL BOARDS, THE KANSAS RECREATION AND PARKS ASSOCIATION, AND THE LEAGUE OF KANSAS MUNICIPALITIES. THE TESTIMONY IS SUMMARIZED IN THE COMMITTEE REPORT.

THE SUBCOMMITTEE CONCLUDED THAT THE EXISTING STATUTE IS UNCLEAR IN MANY RESPECTS AND THAT THERE ARE SOME POLICIES THAT COULD BE CHANGED TO SIMPLIFY AND INCREASE THE UNIFORMITY OF THE OPERATION OF THE COMMISSIONS.

THE SUBCOMMITTEE RECOMMENDED A BILL FOR CONSIDERATION BY THE COMMITTEE THAT WOULD MAKE CERTAIN REQUIREMENTS UNIFORM FOR ALL RECREATION COMMISSIONS.

THE FULL COMMITTEE RECEIVED THE SUBCOMMITTEE REPORT AND REVIEWED THE DRAFT BILL. THE BILL WAS AMENDED TO ALLOW A PROTEST PETITION OF ANY AMOUNT LEVIED FOR INSURANCE OR EMPLOYEE BENEFITS IN EXCESS OF THE 4 MILL MAXIMUM LEVY. HB 2005 CONTAINS THE COMMITTEE'S RECOMMENDATIONS FOR RECODIFICATION OF THE RECREATION COMMISSION STATUTES. THE BILL HAS BEEN REFERRED TO THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.