

Approved _____

Date

3/5/87

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. ~~5:30~~ on March 4, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Anderson 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:

Mr. John Koepke, Kansas Association of School Boards (KASB)
Mr. Larry Cowger, Department of Corrections

The Chairman stated that the Minutes of the Meetings of February 27, March 2, and March 3, 1987, were before the Committee. Senator Arasmith moved that the Minutes be approved. The motion was seconded by Senator Martin. The motion carried.

The Chairman directed the Committee to turn to SB 307, concerning exemption of discussions of security matters from open meetings law. He introduced Mr. John Koepke, from the Kansas Association of School Boards, a conferee on the bill. Mr. Koepke asked the Committee to amend the provisions of HB 2099 into SB 307. There was Committee discussion. Senator Martin moved to include the provisions of the house bill, which would allow the county commissioners, school boards and other agencies to be able to have casual meetings and social contacts, in SB 307. It was a conceptual motion. The motion was seconded by Senator Strick. The motion carried. Senator Arasmith moved that the bill be reported favorably as amended. The motion was seconded by Senator Martin. The motion carried.

The Chairman pointed out a handout before the Committee concerning the convent property tax issue. (Attachment #A1). The packet contained a number of items including memoranda and letters, which are all a part of the attachment. Senator Ehrlich moved that the Committee introduce a bill addressing the issue of convents. The motion was seconded by Senator Daniels. The motion carried.

Mr. Larry Cowger, Special Assistant to the Secretary of Corrections, appeared before the Committee with requests that five proposals be introduced as Committee bills. The first concerned warrant of secretary of corrections for arrest of escapees. (Attachment #1) Senator Bond moved that the bill be introduced. Seconded by Senator Ehrlich. The motion carried.

The next proposal concerned contraband in penal institutions. (Attachment #2) Senator Morris moved that a bill be introduced. Seconded by Senator Bond. The motion carried.

The next proposal dealt with the establishment of the Ellsworth correctional work facility (Attachment #3). It was moved by Senator Morris, and seconded by Senator Vidricksen, that the bill be introduced. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m. ~~on~~ March 4, 1987

The next proposal dealt with the charge, care, management, and control of all buildings and grounds owned by the state which are used as a correctional institution. Senator Vidricksen moved that the bill be introduced. Seconded by Senator Ehrlich. The motion carried. (Attachment #4)

The next proposal concerned the matter of classes of felonies and terms of imprisonment. (Attachment #5) Senator Arasmith moved, seconded by Senator Martin, that the bill be introduced. The motion carried.

Copies of letters from Senator Merrill Werts and Mr. Greg Junghans (Attachment #6) were before the Committee. The matter was discussed, and Mr. John Lamb, of the Alcoholic Beverage Control said they had done some research on this matter. Senator Bond suggested that a copy of this attachment be given to Mr. Lamb and that he respond to the Committee and to Senator Werts in regard to the change of policy. Mr. Lamb will do so.

Staff gave an overview of SB 352, SB 353, SB354, SB 355, SB 356, and SB 357 for the Committee. These bills are assigned to the Committee.

The meeting was adjourned at noon.

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

FRED A. KERR
SENATOR, THIRTY-THIRD DISTRICT
BARBER, COMANCHE, HARPER, KINGMAN, KIOWA,
PRATT, STAFFORD, S. RENO,
W. SUMNER COUNTIES
ROUTE 2
PRATT, KANSAS 67124-9802

3/4/87
Attachment # A1

COMMITTEE ASSIGNMENTS
CHAIRMAN: ASSESSMENT AND TAXATION
MEMBER: AGRICULTURE
EDUCATION
ENERGY AND NATURAL RESOURCES
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
CHAIRMAN: MAJORITY PARTY CAUCUS

February 25, 1987

M E M O R A N D U M

To: Senator Roy Ehrlich
Senator Ed Reilly
Robert Heath, Wichita Attorney

From: Senator Fred Kerr

CONVENT PROPERTY TAX ISSUE

Attached is information which has been compiled for me regarding the convent property tax issue. The first summary was prepared by Mike Sterbach, Legislative Intern, upon my request. The second item is a memo compiled by Fred Weaver, Chairman, Board of Tax Appeals, for me on the issue. I attach these items for your information.

If legislation were to be passed on this issue, I think it would take a great deal of scrutiny. At this time, I am not planning to ask for such legislation. However, if a committee which is exempt from the legislative deadlines does and it is referred to the Senate Assessment and Taxation Committee, I will be glad to schedule a hearing and committee discussion on the issue.

Thank you for your consideration.

Senator Fred A. Kerr

Attachs.
FAK/lc

cc: Fred Weaver

Attachment # A1
FSA 3/4/87

CONVENT PROPERTY TAX ISSUE

(Compiled by Mike Sterbach, Legislative Intern, for Sen Fred Kerr)

I. Summary

- A. Currently convents are not exempt:
 - 1. Convents being taxable is the rule.
 - 2. Convents being exempt is the exception.
- B. Board of Tax Appeals recommends no statutory exemption
 - 1. Convent and Parsonage non-similar.
 - 2. Sister are assigned outside regular duties not exclusively religious.
 - 3. Cannot delineate convent that has no outside duties between those convents that do assign their residents non-religious activities.
 - 4. Board would rather look at each case-by-case.
 - 5. Statutory exemption provided to convent would open the door to other groups claiming "religious exemption".
- C. Convent can submit or request for exemption.
 - 1. Traditionally Board of Tax Appeals will exempt a convent which matches up to the activities/conditions of a parsonage.
 - 2. However, no exemptions have been issues so far this year.
- D. Recommendations:
 - 1. If so desired, draft legislation that would statutorily exempt convents from the tax roles:
 - a. Limit scope of convent to prevent wide-scale exemption as Board of Tax Appeals fears will occur.
 - b. Specifically denote what types of religious bodies will qualify for exemption.
 - 2. Do not draft legislation specifically exempting convents, but provide direction to the Board of Tax Appeals when considering convent for exemption-more or less endorsing the case-by-case approach.

MEMO

TO: Senator Fred Kerr

FROM: Fred L. Weaver *FLW*

RE: Convent Exemption

DATE: February 20, 1987

Your letter of February 9, 1987, seeks advice on the question of exempting 'convents' from property taxation. As Mr. Heath points out, there are some similarities among 'convents' and parsonages. Both properties are living quarters and the occupants are at least indirectly associated with a church. Mr. Heath is also correct when he acknowledges that 'convents' are not equivalent to parsonages.

Current law.

Kansas courts hold that the Constitution does not exempt residences regardless of who lives there. See In Re First Assembly of God, Shawnee County District Court #84-CV-965. (December, 1984). The Court specifically found that use of the premises as living quarters constituted a secular use, even though a pastor's home is also used for prayer, counseling and church meetings. Tax exempt status for parsonages is exclusively a creature of statute.

K.S.A. 1986 Supp. 79-201 Seventh currently exempts parsonages if:

1. The property is owned by the church and
2. Is occupied by a minister or clergyman, and
3. The minister is actually and regularly engaged in conducting church services, or religious ministrations.

The request for exemption of 'convents' is a new issue. The Kansas Catholic Conference and Kansas Council of Churches neither advocated nor testified in favor of 'convent' exemption prior to this year. Testimony from religious organizations has been confined to parsonage. Exemption.

Convent definition.

Convent is a term subject to a variety of interpretation. Black's Law Dictionary, 4th Edition and Webster's Third New International Dictionary, define 'convent' as ". . . a house or set of buildings occupied by a community of religious recluses . . . an association or community of recluses devoted to a religious life under a superior . . ." a religious house, now regarded as being merely voluntary association." The first definitions are narrow, describing only those Orders who occupy 'convents' as a means of separating themselves from society. The last definition is broad--describing virtually any residence occupied by a member or leader of any voluntary association. Arguably a broad definition would include 'convents' owned by a 'church' but it also includes voluntary associations of questionable 'religious' origin.

Kansas cases direct this Board to adopt a narrow or strict definition of 'convent'. Taxation is the rule and exemption is the exception. Exemption statutes are strictly construed. In

Re Board of Johnson County Commissioners, 225 Kan. 517 (1979).
Farmers Coop v. Kansas Board of Tax Appeals, 236 Kan. 632 (1985).
A strict interpretation of 'convent' would not entitle Mr. Heath's clients nor any similar 'community' to exemption. Typically a sister or nun completes her religious training and takes vows of poverty, chastity, and devotion to 'religious' life. The Order then assigns her to some 'ministry' operated by the Order. For example, the Board heard testimony in one case where the sisters were assigned a house to live in. The sisters were all employed at a hospital owned and operated by the same Order which owned the home. These sisters assigned to work as hospital administrator, clerk in medical records and director of pastoral care. The hospital paid the 'mother house' the same salary any other employee receives in the same position. Each year, the sisters submit a budget for living expenses which is then paid by the Order. The budget approved is directly related to the amount paid to the Order and is commensurate with the nun's position. The Treasurer of the Order testified the amount 'paid' to the sisters was less than received from the hospital. Applicants have sought to exempt convents occupied by teachers in parochial schools and colleges. A recent exemption case dealt with a vehicle used to transport a nun to her job in the State Treasurer's office. it is difficult to find any religious purpose for these properties, let alone exclusive religious use.

The parsonage statute exempts homes occupied by clergymen engaged in conducting services or religious ministrations. Nuns are prohibited from leading church services or administering the sacraments. Thus they are not conducting services. Those who support exemption assert that nuns are engaged in religious ministrations of the church. The Board cannot interpret religious ministrations so broadly as to include teaching a college course, keeping medical records or managing a hospital. Even if some of the nun's duties are connected to the church or Order, her duties are not exclusively religious. If "religious ministrations" were construed so broadly as to include these duties, the Board would have no basis to deny exemption for a person who donates his residence and salary to a self-organized 'church' and is employed by a hospital, school or virtually any other occupation. The only requirement for exemption in that case is that the individual truly believe the association is a 'religious' entity and that the 'church' own the property.

Testimony presented to the Board shows that the Order of sisters derives revenues in excess of the expense of buying a house and supporting its occupants. The Board is concerned that this practice comes dangerously close to ". . . property held or used as an investment even though the income . . . is used wholly for [exempt] purposes." K.S.A. 1986 Supp. 79-201 Second. Even if the property is used for some religious purpose, it is also used, at least in part, to generate income for the Order.

Finally, the Board notes that most 'convents' are owned by the Order, not the church. If a "religious society", as distinguished from a church, qualifies for exemption, this Board must also grant exemption to a broad spectrum of self proclaimed 'religious' societies. There is no legal distinction between the

cases already pending before the Board and the other potential applicants under a broad or 'permissive' interpretation. If the Legislature adopts a policy exempting 'convents,' that policy would also exempt any organization claiming to be 'religious.'

Conclusion--

The parsonage statute as written exempts residences for clergy actually engaged in exclusively religious functions. A statute exempting 'convents' must be extremely broad, perhaps unconstitutional. Even if the statute passes constitutional muster, a law broad enough to include convents also exempts far more property than the language is designed to affect.

June 1st - Wed 4 March
F + SA Ehrlich to propose

STATE OF KANSAS

ROY M. EHRlich
SENATOR, THIRTY-FIFTH DISTRICT
RICE, BARTON, RUSSELL COUNTIES
ROUTE 1, BOX 97
HOISINGTON, KANSAS 67544-9747



TOPEKA

SENATE CHAMBER
February 20, 1987

COMMITTEE ASSIGNMENTS
CHAIRMAN: HEALTH AND WELFARE
MEMBER: FEDERAL AND STATE AFFAIRS
LABOR, INDUSTRY, AND SMALL BUSINESS
LOCAL GOVERNMENT
ADVISORY COMMITTEE OF STATE
DEPARTMENT ON AGING
NATIONAL CONFERENCE OF STATE
LEGISLATURES SPECIAL SELECTED
COMMITTEE: HEALTH CARE
NATIONAL SPECIAL SELECT STANDING
COMMITTEE OF THE MENTAL HEALTH
ASSOCIATION
COUNCIL OF STATE GOVERNMENTS -
ENERGY COMMITTEE

The Honorable Fred Kerr, Chairman
Senate Assessment and Taxation Committee
Statehouse
Topeka, Kansas 66612

Dear Senator Kerr:

Please find enclosed material concerning legislation
relating to **Tax Exempt status of convents.**

Do you plan to look into this problem in your
committee this session? If not, I am going to request
a committee bill through the Senate Federal and State
Affairs Committee.

Your prompt reply would be appreciated.

Sincerely,

Roy M. Ehrlich
State Senator
Thirty-Fifth District

Enclosures

pc: Larry E. Keenan
Sister Judith Lindell
Edward Reilly ✓

KEENAN LAW FIRM, P.A.

ATTORNEYS AT LAW

GREAT BEND, KANSAS 67530

TELEPHONE 316 793-7813; 793-3165

ROBERT P. KEENAN
LARRY E. KEENAN
DENNIS J. KEENAN
TIMOTHY R. KEENAN
RICHARD A. BOECKMAN

2200 LAKIN
P.O. DRAWER 459

February 11, 1987

Representative Bob Mead
House of Representatives
State Capitol
Topeka, KS 66612

Representative J. Frank Buehler
House of Representatives
State Capitol
Topeka, KS 66612

Senator Roy M. Ehrlich
State Capitol
Topeka, KS 66612

RE: Legislation Relating to Tax
Exempt Status of Convents

Gentlemen:

As you know, the Kansas tax exemptions were changed last year with regard to the exemption of parsonages. The problem is that the legislation eliminates convents from tax exempt status.

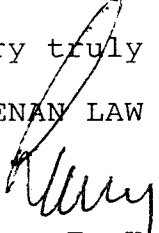
Sister Judith Lindell of the Dominican Sisters in Great Bend, will be writing to each of you sending information pertaining to this matter.

The changes are unfair to the Sisters as the law is being interpreted and we need your help in this respect. After you receive Sister Judith's letter, if you have any questions concerning this matter, please feel free to contact either her or this office.

Our interest is that we are legal counsel to the Sisters, but also their friends and are concerned about their welfare.

Very truly yours,

KEENAN LAW FIRM, P.A.


Larry E. Keenan

LEK:rp

cc: Sister Judith Lindell

THE NUNS OF THE THIRD ORDER OF ST. DOMINIC
DOMINICAN SISTERS

3600 Broadway
GREAT BEND, KANSAS 67530
Phone: 316-792-1232

February 9, 1987

Roy M. Ehrlich
State Senator
State Capitol
Topeka, KS 66612

Dear Mr. Ehrlich,

We would appreciate your interest and support of legislation amending the statutes governing the exemption of parsonages which adversely affects our Religious Community.

I am enclosing some correspondence I have received from Robert L. Heath of Blaes and Heath, Attorneys at Law. Mr. Heath has been helping us in regard to clarifying the taxation of one of our Convents located in Wichita, Kansas.

I would appreciate your time to read the enclosed letters and whatever support you could give us in this matter.

Sincerely,

Sister Judith Lindell

Sister Judith Lindell
Treasurer

encl.

BLAES AND HEATH
ATTORNEYS AT LAW
ONE MAIN PLACE - SUITE 500
100 NORTH MAIN STREET

WICHITA, KANSAS 67202

TELECOPY (316) 267-0333

STEPHEN M. BLAES
ROBERT L. HEATH

(316) 264-0301
(316) 267-0331

January 29, 1987

Hon. Edward F. Reilly, Jr.
The State Senate
Third Floor - Capitol Building
Topeka, Kansas 66612

Re: Taxation of Religious Convents

Dear Senator Reilly:

I am writing you in my capacity as General Counsel for the Sisters of St. Joseph of Wichita, Kansas. As you are aware, the Sisters are a Congregation of religious women whose lives are dedicated to charitable works of service.

A problem has arisen regarding the tax exemption relating to convents where the Sisters reside. As you know, the 1986 legislature amended K.S.A. 85 Supp. 79-201 to deal with the parsonage issue by adding Paragraph 7 specifically exempting "all parsonages owned by a Church society and actually and regularly occupied as a residence by a minister . . ." See Chapter 368, 1986 Session Laws of Kansas, page 1943.

This action was followed by an Attorney General's Opinion which indicated that all property owners claiming the parsonage exemption must file a request for exemption with the State Board of Tax Appeals. Some County Appraisers across the State apparently took this as a directive to include all properties used as residences, including convents, whether designated as parsonages or otherwise and placed them on the tax rolls, even though such properties were previously determined to be exempt for general religious purposes.

While there is some similarity of convents and parsonages, i.e., facilities used as residences or living quarters

occupied by persons dedicated to the religious life, there are also clear distinctions that make it difficult to categorize parsonages as convents and vice versa. However, the determination of the exemption should not turn on a matter of semantics. If a religious society, order or congregation is engaged in conducting religious and charitable ministrations and other charitable works, such fills the intent of the legislature regardless of how such residences may be designated or classified.

At the present time, there is pending before the Board of Tax Appeals a case arising out of your District involving the Sisters of Charity of Leavenworth (Docket No. 3162-86-TX) on this very issue. Likewise, my client, the Sisters of St. Joseph has also been advised that two of their convents have been placed back on the tax rolls by the Sedgwick County Appraiser's Office and an application is presently pending before the State Board of Tax Appeals in these two instances. I have also been contacted by the Nuns of the Third Order of St. Dominic in Great Bend, Kansas about this issue as it relates to their convent located in Wichita which has also been placed back on the tax rolls.

It is clear that legislation is needed to rectify this situation if convents used by religious orders are to retain their tax exempt status. It further appears that this could easily be accomplished by amending Paragraph 7 of K.S.A. 79-201 (1986 Supp.) as follows:

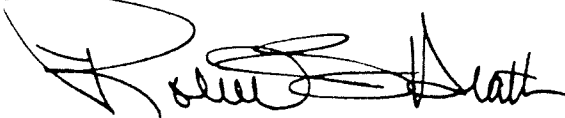
"7. All parsonages and convents owned by a Church or religious society and actually and regularly occupied and used exclusively as a residence by a minister, or other clergy persons of such Church society who are actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage or convent is located, to the extent necessary for the accommodation of such parsonage or convent." (The underlined words are the changes to the law as it now exists.)

This language or something of similar import would appear to solve the problem and I would appreciate it if you could give your powerful assistance in sponsoring such a legislative change.

There are obviously a number of Churches and religious congregations that are vitally interested in this matter and

I would appreciate hearing from you at your earliest convenience. If I can be of further assistance or provide you with additional information, please advise.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert L. Heath". The signature is written in a cursive style with a large initial "R" and "H".

ROBERT L. HEATH

RLH:cr

cc: Sister M. Antoinette Yelek
Sister Judith Lindell
Linda A. Terrill, Esq.
J. Francis Hesse, Esq.
Stephen M. Blaes, Esq.
Mr. Robert Runnels

BLAES AND HEATH

ATTORNEYS AT LAW

ONE MAIN PLACE - SUITE 500

100 NORTH MAIN STREET

WICHITA, KANSAS 67202

TELECOPY (316) 267-0333

STEPHEN M. BLAES
ROBERT L. HEATH

(316) 264-0301
(316) 267-0331

February 6, 1987

Sister Judith Lindell
Treasurer
Nuns of the Third Order of St. Dominic
Dominican Sisters
3600 Broadway
Great Bend, Kansas 67530

Re: Legislation Relating to Tax Exempt Status of Convents

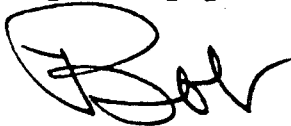
Dear Sister Judith:

You will recall my letter to Edward F. Reilly, Jr., Senator from Leavenworth and Jefferson County, relating to the tax exempt status of convents.

Enclosed is a copy of his response wherein he indicates a willingness to lend his support to this cause. He has referred my letter to Senator Fred Kerr who is Chairman of the Assessment and Taxation Committee, who has responsibility for such matters. I will await any further word and keep you advised.

Thanks, Sister Judith.

Very truly yours,



ROBERT L. HEATH

RLH:cas

Enclosure

cc: Larry Keenan, Esq.

STATE OF KANSAS

EDWARD F. REILLY, JR.
SENATOR, THIRD DISTRICT
LEAVENWORTH AND JEFFERSON COUNTIES
430 DELAWARE
LEAVENWORTH, KANSAS 66048-2733
913-682-1236



COMMITTEE ASSIGNMENTS
CHAIRMAN: FEDERAL AND STATE AFFAIRS
AND INSURANCE SUBCOMMITTEE
VICE CHAIRMAN: ELECTIONS
MEMBER: CONFIRMATIONS
FINANCIAL INSTITUTIONS AND
INSURANCE
PUBLIC HEALTH AND WELFARE

TOPEKA

SENATE CHAMBER

February 3, 1987

Mr. Robert L. Heath
Attorney at Law
Elaes and Heath
One Main Place, Suite 500
100 North Main Street
Wichita, KS 67202

Dear Mr. Heath:

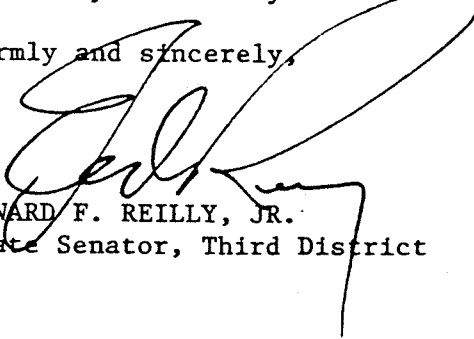
I am in receipt of your letter of January 29th regarding the issue of clarifying the Kansas statute concerning tax exemptions relating to convents where the Sisters may reside.

I am well aware of the 1986 legislation passed dealing with the exemption of parsonages and will be happy to lend my support to clarification of that law.

I have asked Senator Fred Kerr, Chairman of the Assessment and Taxation Committee, to review this matter since it would appropriately go before that Committee anyway. I have given him a copy of your letter and my letter and have asked him to indicate whether his Committee would be interested in amending the statute or whether the Senate Committee on Federal and State Affairs, which is now engaged in lengthy hearings on a number of other issues, should proceed to do so.

I appreciate your note in regard to the proposed amendments necessary to clarify this statute and will keep you advised.

Warmly and sincerely,



EDWARD F. REILLY, JR.
State Senator, Third District

3/4/87

LEGISLATIVE PROPOSAL NO. _____

Revisor of Statutes No. _____

Attachment #1

BILL NO. _____

DRAFT NO.	DATE
1	12-17-86

"CLEAN-UP"

"SUBSTANTIVE"

INTRODUCE THROUGH _____

APPROVED BY GOVERNOR

YES

NO

NOTES AND COMMENTS

DOC PERSONELL TO FOLLOW UP:

AN ACT CONCERNING:

Warrant of secretary of corrections for
arrest of escapees:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 The secretary of corrections is authorized to issue a warrant
2 for the arrest and apprehension of any inmate who escapes from the
3 custody of the secretary. A warrant issued by the secretary of
4 corrections charging an inmate with escape from custody shall au_
5 thorize any law enforcement officer to arrest and deliver the inmate
6 to the jail used by the county where the inmate is arrested, in the
7 same manner as for the execution of any arrest warrant. If the inmate
8 is arrested within the state of Kansas, the secretary of corrections
9 may retake custody of the inmate and return the inmate to any insti-
10 tution under the custody of the secretary. If the inmate is arrested
11 in another state pursuant to a warrant issued by the secretary, the
12 secretary shall initiate a request as otherwise provided by law to
13 have the inmate returned to the state of Kansas.

14

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Attachment #1
FSA 3/4/87

DEPARTMENT OF CORRECTIONS
STATE OF KANSAS

3/4/87
Attachment #2

LEGISLATIVE PROPOSAL NO. _____

Revisor of Statutes No. _____

BILL NO. _____

DRAFT NO.	DATE
1	12-17-86

"CLEAN-UP"

"SUBSTANTIVE"

INTRODUCE THROUGH _____

APPROVED BY GOVERNOR YES.

NO

NOTES AND COMMENTS

DOC PERSONELL TO FOLLOW UP:

AN ACT CONCERNING: Contraband in penal institutions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

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K.S.A. 21-3826 is hereby amended to read as follows: "Traffic in contraband in a penal institution is introducing or attempting to introduce into or upon the grounds of any institution under the supervision and control of the ~~director of penal institutions~~ *secretary of corrections* or any jail, or taking, sending, attempting to take or attempting to send therefrom or any unauthorized possession while in ~~aferesaid any such~~ *aferesaid any such* institution or jail ~~or distributing~~ within ~~any aferesaid institution, any narcotic, synthetic narcotic, drug, stimulant, sleeping pill, barbiturate, nasal inhaler, alcoholic liquor, intoxicating beverage, firearm, ammunition, gun powder, weapon, hypodermic needle, hypodermic syringe, currency, coin, communi-~~ *cation, or writing any item whatsoever* without the consent of the ~~warden~~ *secretary of corrections, director, superintendent or jailer.*

Traffic in contraband in a penal institution is a class E felony.

Attachment #2
FSA 3/4/87

LEGISLATIVE PROPOSAL NO. _____

Revisor of Statutes No. _____

BILL NO. _____

3/4/87

Attachment #3

DRAFT NO.	DATE
1	1-28-87

"CLEAN-UP"

"SUBSTANTIVE"

INTRODUCE THROUGH _____

APPROVED BY GOVERNOR

YES.

NO

DOC PERSONELL TO FOLLOW UP:

NOTES AND COMENTS

AN ACT CONCERNING: An Act providing for the establishment of the Ellsworth correctional work facility; providing for management and control; amending K.S.A. 75-5202 and K.S.A. 1986 Supp. 21-4602 and 75-3058 and repealing the existing sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 New Section 1. The secretary of corrections is hereby author-
 2 ized to establish and equip the Ellsworth correctional work facility
 3 which shall be located in Ellsworth, Kansas.

4
 5 New Section 2. The institution so established shall be used
 6 for the confinement of inmates committed to the custody of the secre-
 7 tary of corrections who are transferred to such institution pursuant
 8 to K.S.A. 75-5206, and amendments thereto.

9
 10 New Section 3. The secretary of corrections shall have
 11 general management and control of such institution and of the offi-
 12 cers and employees thereof and the inmates therein and of all matters
 13 relating to the discipline, control and fiscal concerns thereof,
 14 the same as other correctional institutions under the secretary's
 15 control and jurisdiction and may make such rules and regulations
 16 as may be determined necessary for carrying out the purposes herein
 17 provided for. The secretary shall appoint a director with such
 18 duties as may be prescribed, and the director so appointed, may select,
 19 with the approval of the secretary, officers and employees necessary
 20 for the management and operation of the institution. The director

Attachment #3
FSA 3/4/87

1 and all other officers and employees shall be within the classified
2 service of the Kansas civil service act.

3

4 Section 4. K.S.A. 1986 Supp. 21-4602 is hereby amended to
5 read as follows:

6 21-4602. Definitions. As used in K.S.A. 21-4601 through
7 21-4621, and amendments thereto:

8 (1) "Court" means any court having jurisdiction and power to
9 sentence offenders for violations of the laws of this state.

10 (2) "Suspension of sentence" means a procedure under which a
11 defendant, found guilty of a crime, upon verdict or plea, is released
12 by the court without imposition of sentence. The release may be
13 with or without supervision in the discretion of the court.

14 (3) "Probation" means a procedure under which a defendant, found
15 guilty of a crime upon verdict or plea, is released by the court after
16 imposition of sentence, without imprisonment, subject to conditions
17 imposed by the court and subject to the supervision of the probation
18 service of the court.

19 (4) "Parole" means the release of a prisoner to the community
20 by the Kansas parole board prior to the expiration of such prisoner's
21 term, subject to conditions imposed by the board and to the secretary
22 of correction's supervision. "Parole" also means the release by a
23 court of competent jurisdiction of a person confined in the county
24 jail or other local place of detention after conviction and prior
25 to expiration of such person's term, subject to conditions imposed
26 by the court and its supervision. Where a court or other authority
27 has filed a warrant against the prisoner, the Kansas parole board or
28 paroling court may release the prisoner on parole to answer the war-
29 rant of such court or authority.

30 (5) "Institution" means the Kansas state penitentiary at
31 Lansing, the Kansas correctional institution at Lansing, the state
32 industrial reformatory at Hutchinson, the state reception and
33 diagnostic center at Topeka, the state correctional-vocational training
34 center at Topeka, the Ellsworth correctional work facility at
35 Ellsworth, and any other institution, center or camp under control
36 of the secretary of corrections.

37 (6) "Community correctional services program" means a program
38 which operates under the community corrections act and to which a

1 defendant is assigned for supervision, confinement, detention,
2 care or treatment, subject to conditions imposed by the court. A
3 defendant assigned to a community correctional services program
4 shall be subject to the continuing jurisdiction of the court and
5 in no event shall be considered to be in the custody of or under
6 the supervision of the secretary of corrections.

7

8 Section 5. K.S.A. 75-5202 is hereby amended to read as follows:

9 75-5202. Definitions. As used in the act, unless the context
10 clearly requires otherwise:

11 (a) "Secretary" means the secretary of corrections created
12 by this act.

13 (b) "Authority" means the Kansas adult authority established
14 by K.S.A. 22-3707 and amendments thereto.

15 (c) "Inmate" means any person incarcerated in any correc-
16 tional institution of the state of Kansas.

17 (d) "Correctional institution" means the Kansas state peni-
18 tentiary, the Kansas correctional institution at Lansing, the state
19 industrial reformatory, the state reception and diagnostic center,
20 the state correctional-vocational training center, *the Ellsworth*
21 *correctional work facility*, and any other correctional institution
22 hereafter established by the state for the confinement of offenders.

23 (e) "Director" means the person in charge of the operation
24 and supervision of a correctional institution.

25 (f) "Center" means the state reception and diagnostic center.

26 (g) "Correctional officer" means a full-time, salaried officer
27 or employee under the jurisdiction of the secretary, whose duties
28 are limited to the receipt, custody, control, maintenance, discipline,
29 security and apprehension of persons convicted of criminal offense
30 in this state and sentenced to a term of imprisonment under the cus-
31 tody of the secretary.

32 (h) "Parole officer" means a full-time salaried officer or
33 employee under the jurisdiction of the secretary whose duties in-
34 clude:

35 (1) Investigation, supervision, arrest and control of persons
36 on parole and the enforcement of the conditions of parole; and

37 (2) services which relate to probationers and parolees and
38 are required by the uniform act for out-of-state parolee supervision.

1 Section 6. K.S.A. 1986 Supp. 75-3058 is hereby amended to
2 read as follows:

3 75-3058. The following imprest funds are hereby established
4 for institutions, other units or functions of the department of
5 corrections:

6	Kansas state penitentiary	\$ 30,000
7	State industrial reformatory	25,000
8	State reception and diagnostic center	2,000
9	State correctional-vocational training center	10,000
10	Kansas correctional institution at Lansing	5,000
11	Toronto honor camp	3,000
12	El Dorado honor camp	4,000
13	Wichita work release center	4,000
14	Winfield prerelease center	10,000
15	Topeka prerelease center	5,000
16	Ellsworth correctional work facility	10,000

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Section 7. K.S.A. 75-5202 and K.S.A. 1986 Supp. 21-4602
and 75-3058 are hereby repealed.

Section 8. This act shall take effect and be in force
from and after its publication in the statute book.

DEPARTMENT OF CORRECTIONS
STATE OF KANSAS

3/4/87
Attachment #4

LEGISLATIVE PROPOSAL NO. _____

Revisor of Statutes No. _____

BILL NO. _____

"CLEAN-UP"

"SUBSTANTIVE"

DRAFT NO.	DATE
2	2-19-87

INTRODUCE THROUGH _____

APPROVED BY GOVERNOR YES
 NO

NOTES AND COMMENTS _____

DOC PERSONELL TO FOLLOW UP:

=====

AN ACT CONCERNING:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Notwithstanding the provisions of K.S.A. 75-3762 and K.S.A.
2 75-3765, and amendments thereto, the secretary of corrections shall
3 have the charge, care, management and control of all buildings and
4 grounds owned by the state which are used as a correctional insti-
5 tution as defined by K.S.A. 75-5202, and amendments thereto, or
6 for operation of the state surplus property program pursuant to
7 K.S.A. 1986 Supp. 75-6601 and amendments thereto.

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Attachment #4
FSA 3/4/87

LEGISLATIVE PROPOSAL NO. _____

Revisor of Statutes No. _____

_____ BILL NO. _____

DRAFT NO.	DATE
1	2-27-87

"CLEAN-UP"

"SUBSTANTIVE"

INTRODUCE THROUGH _____

APPROVED BY GOVERNOR YES

NO

NOTES AND COMENTS

DOC PERSONELL TO FOLLOW UP:

===== AN ACT CONCERNING: Classes of felonies and terms of imprisonment. =====

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 That K.S.A. 21-4501 be amended to read as follows:

2 21-4501. For the purpose of sentencing, the following

3 classes of felonies and terms of imprisonment authorized for each

4 class are established:

5 (a) Class A, the sentence for which shall be imprisonment

6 for life,

7 (b) Class B, the sentence for which shall be an indeter-

8 minate term of imprisonment, the minimum of which shall be fixed

9 by the court at not less than five years nor more than 15 years,

10 and the maximum of which shall be fixed by the court at not less

11 than 20 years nor more than life.

12 (c) Class C, the sentence for which shall be an indeter-

13 minate term of imprisonment, the minimum of which shall be fixed

14 by the court at not less than three years nor more than five

15 years and the maximum of which shall be fixed by the court at not

16 less than 10 years nor more than 20 years.

17 (d) Class D, the sentence for which shall be an indeter-

18 minate term of imprisonment fixed by the court as follows:

19 (1) For a crime specified in article 34, 35 or 36 of chapter

20 21 of the Kansas Statutes Annotated, a minimum of not less than

1 two years nor more than three years and a maximum of not less
2 than five years nor more than 10 years; and

3 (2) for any other crime, a minimum of not less than one year
4 nor more than three years and a maximum of not less than five
5 years nor more than 10 years.

6 (e) Class E, the sentence of which shall be an indeterminate
7 term of imprisonment, the minimum of which shall be ~~fixed-by-the~~
8 ~~court-at-not-less-than~~ one year and the maximum of which shall be
9 fixed by the court at not less than two years nor more than five
10 years.

11 (f) Unclassified felonies, which shall include all crimes
12 declared to be felonies without specification as to class, the
13 sentence for which shall be in accordance with the sentence
14 specified in the statute that defines the crime. If not sentence
15 is provided in the statute, the offender shall be sentenced as
16 for a class E felony.

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STATE OF KANSAS



TOPEKA

SENATE CHAMBER

MERRILL WERTS
SENATOR, TWENTY-SECOND DISTRICT
GEARY AND RILEY COUNTIES

3/4/87
Attachment #6

COMMITTEE ASSIGNMENTS
CHAIRMAN: ENERGY AND NATURAL RESOURCES
VICE CHAIRMAN: WAYS AND MEANS
MEMBER: COMMERCIAL AND FINANCIAL
INSTITUTIONS
LABOR, INDUSTRY AND SMALL
BUSINESS
ORGANIZATION, CALENDAR AND RULES

February 18, 1987

Greg Junghans
Kwik Sack Convenience Stores
1310 West Ash
Junction City, KS 66441

Dear Greg:

This will acknowledge your letter of February 11 regarding an apparent lack of consistency in our state's liquor laws whereby a club owner can be licensed both for liquor and cereal malt beverage; however, the owner of separate food markets and liquor stores cannot be licensed for both.

By copy of this letter, I am forwarding your letter on to Senator Ed Reilly who is Chairman of the Senate Committee on Federal & State Affairs. His committee has worked on the bill which would implement the liquor by the drink constitutional amendment and is now ready for additional work on other liquor and CMB statutes, so your letter is most timely.

Thank you for calling this apparent discrepancy to my attention.

Sincerely,


Merrill Werts

MW/nj

cc: Senator Ed Reilly ✓

OFFICE: STATE CAPITOL
TOPEKA, KANSAS 66612-1565
913-296-7360

Attachment #6
FSA 3/4/87

HOME: 1228 MILLER DRIVE
JUNCTION CITY, KANSAS 66441-3312
913-238-1072



CONVENIENCE STORES

February 11, 1987

Senator Merrill Werts
Senate Chamber
Capitol Building
Topeka, KS 66612

Dear Senator Merrill Werts,

A few months ago I visited with John Lamb, Director of Alcoholic Beverage Control, about a conflict with a retail liquor licensee having both a cereal malt beverage license and a liquor license. Presently I own one liquor store and eleven convenience stores. My liquor store and my convenience stores are operated independently. All the convenience stores have cereal malt beverage licenses. My visit with John Lamb presented that state statute 41-311 has been an old regulation effective in the 40's. This statute does not allow an individual in the retail liquor business to obtain the two licenses I need to operate my businesses.

The rules and regulations have since been updated for clubs. Their changes have allowed them to obtain a liquor and cereal malt beverage license. I feel there is no conflict in having both licenses also for a retail liquor licensee.

The liquor laws are in the process of revision, because of this I am hopeful that this license conflict can be resolved. Any efforts on your behalf would be greatly appreciated in helping me with this license problem. If any additional information is required, please contact me at 762-6010.

Sincerely,

A handwritten signature in black ink that reads "Greg Junghans". The signature is written in a cursive style with a long horizontal line extending from the end.

Greg Junghans