

Approved _____

Date 3/6/87

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./~~p.m.~~ on March 5, 1987 in room 254-E of the Capitol.

All members were present. ~~except~~

Committee staff present:

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

Conferees appearing before the committee:

Mr. T. L. Green, General Counsel, Mid States Port Authority
Mr. Neal Whitaker, Kansas Beer Wholesalers Association
Mr. R. E. "Tuck" Duncan, Kansas Wine and Spirits Wholesalers Association
Mr. John Lamb, Director, Alcoholic Beverage Control

The Chairman stated that the Minutes of the Meetings of February 24, 26, and March 4, 1987, were before the Committee.

Mr. T. L. Green, of the Mid States Port Authority, was welcomed by the Chairman. Mr. Green asked that the Committee introduce a proposal to eliminate any question concerning the application of the Tort Claims Act to the Mid States Port Authority. (Attachment #1) Senator Bond moved that the bill be introduced. The motion was seconded by Senator Martin. The motion carried.

The Chairman called the Committee's attention to a letter from Mr. Clark Owens, Sedgwick County District Attorney, which included his formal statement to be made part of the Minutes of February 26, 1987. (Attachment #2)

The next item was copy of a letter from Mr. Donald P. Schnacke concerning pellet guns, asking that the Committee consider legislation that bars the sale and use of pellet guns in Kansas. There was discussion, but no action was taken. (Attachment #3)

The Chairman directed the Committee to SB 352, concerning Alcoholic Beverage Control licenses. Mr. Neal Whitaker, of the Kansas Beer Wholesalers Association, appeared concerning the bill, as did Mr. R. E. "Tuck" Duncan, of the Kansas Wine and Spirits Wholesalers, and Mr. John Lamb, Director of the Alcoholic Beverage Control. Mr. Duncan and Mr. Lamb also appeared concerning SB 353, which concerns the division of Alcoholic Beverage Control; residency and conflict of interest. Mr. Lamb had handed out a copy of his Memorandum concerning both bills for the Committee. (Attachment #4) Staff had prepared balloons of both bills, and the Chairman and Members expressed appreciation for this effort and the fact that it helps a great deal in working the bills.

Senator Arasmith moved that the Minutes of February 24, 26, and March 4, 1987, be approved. The motion was seconded by Senator Morris. The motion carried.

The meeting was adjourned at noon.

Mid states Port Authority

3/5/87
Attachment #1

McDill "Huck" Boyd, Chairman
Ray Nelson, Vice-Chairman
John Golden, Secretary
Richard Spencer, Treasurer

BOARD MEMBERS

Doyle Rahjes
Warren Reid
Harriet Shatzell
Dennis Sweat
R. A. True
Vernon Wendelken
Dwain Compton
Ray Ellis
Charles Fogo
Gerald Fraser
Don Hewitt
William W. Kaumans
Mark C. Morgan
Marion Patton
Pete Pratt
Darrel Westervelt

March 4, 1987

Senator Ed Reilly, Chairman
Federal & State Affairs Committee
Room 255-E
Capitol Building
Topeka, Kansas 66612

Jerry Link, Assistant Treasurer
T. L. Green, General Counsel

Re: Mid States Port Authority

Dear Ed;

As General Counsel to the Mid States Port Authority I hereby request that the Senate Federal and State Affairs Committee introduce the attached changes to K.S.A. 12-3402. The proposed changes are to eliminate any question concerning the application of the Tort Claims Act to the Mid States Port Authority.

I believe the Authority comes within the definition of "State" as provided in that Act. However, I was recently in court defending the Authority where the argument was made that the Authority was not within that definition or that the language in Section 3402 would take the Authority from under the protection of the Act.

As you are aware the Authority is made up of thirteen Kansas counties, which have appointed the members of the Board of Directors. In the past the Authority has been unable to acquire liability insurance. The only coverage the Authority has is that provided by its various lessees. Were it ever successfully argued that the Tort Claims Act did not afford the Authority some protection the results could be devastating to the here-to-fore successful operations of the Authority.

Your cooperation is appreciated. If you would like to have me appear before the Committee to further explain this, please advise.

Sincerely,



T.L. Green
General Counsel

Attachment #1
FSA 3/5/87

enc.

12-3402. Same; purpose; creation; legislative approval; tax levy; election required; dissolution. (a) It is the purpose of this act to promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth of intrastate and interstate commerce within the state; to promote the advancement and retention of ports within the state; to encourage and assist in the location of new business and industry in this state and the expansion, relocation or retention of existing business and industry when so doing will help maintain existing levels of commerce within the state or increase the movement of commodities, goods and products produced, manufactured or grown within or without the state through existing ports within the state or lead to the development of new ports within the state; and to promote the economic stability of the state by maintaining and providing employment opportunities, thus promoting the general welfare of the citizens of this state, by authorizing port authorities to be established in each city and in each county of the state. A port authority shall be a public body corporate and politic which if established shall be known as the "port authority" of the city or of the county. Joint port authorities may be created under authority of this act by cooperative agreement executed by the governing bodies of any city or county or cities or counties. Such joint authorities formed by such cooperative agreement shall have all the powers and jurisdiction enumerated in this act. Such creation shall be by ordinance or resolution and except for port authorities created prior to April 1, 1981, none shall be created without approval of the legislature by concurrent resolution. The authority shall not transact any business or exercise powers hereunder until the passage of a concurrent resolution by the legislature as hereinbefore provided. No member of the authority shall serve as such who owns land, other than a residence, or represents in a fiduciary capacity or as agent any person who owns land surveyed or examined for

port locations. A port authority created hereunder may sue and be sued, plead and be impleaded, ~~and shall have the powers and jurisdiction enumerated in K.S.A. 12-3401 to 12-3433, inclusive, and amendments thereto.~~ The exercise by such port authority of the powers conferred upon it shall be deemed to be essential governmental functions of the creating city or county, ~~but no port authority shall be immune from liability by reason thereof.~~

(b) Any city or county creating or participating in the creation of a port authority in accordance with this act shall before any taxes are levied submit the question of whether an annual tax levy may be made on the assessed taxable tangible property of such city, county, or a combination thereof, and the amount thereof to the electors of such city or county creating such authority. If a majority of those voting on the question vote in favor of such tax levy, the same may be made for such purpose and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774 and amendments thereto by cities located in the county, and otherwise such tax levy shall not be made. If such tax levy is so approved, the authority may expend funds not otherwise appropriated to defray the expense of surveys and examinations incidental to the purposes of the port authority so created and may expend funds for any of the purposes as set forth in K.S.A. 12-3406 and amendments thereto.

(c) Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the city or county, or combination thereof, creating it, and in such event the properties of the port authority shall be transferred to the subdivision creating it, or, if created by more than one city or county, to the city or county creating it in such manner as may be agreed upon by them. Obligations of the authority shall not be obligations of the state of Kansas, nor of any city or county which creates the authority, unless the obligations are specifically accepted by a majority vote of the electors of such city or county voting on the issue. Notice of such election shall be published in a newspaper of general circulation in the county or counties once each week for two consecutive weeks, the first publication to be not less than 21 days prior to such election. Such notice shall set forth the time and place of holding the election

to the extent permitted by
K.S.A. 75-6101 et seq.

3/5/87
Attachment #2

SEDGWICK COUNTY DISTRICT ATTORNEY

18th Judicial District

Sedgwick County Courthouse
Annex — Second Floor
535 North Main
Wichita, Kansas 67203

CLARK V. OWENS
District Attorney

(316) 268-7281

HENRY H. BLASE
Chief Deputy

**TESTIMONY OF CLARK V. OWENS ON HOUSE BILL 2062
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
February 26, 1987**

I. Original House Bill 2062

The death penalty bill as it was originally introduced in the House is a workable piece of legislation that complies with all of the constitutional requirements that have been mandated by the United States Supreme Court. The only change that I would suggest regarding this bill would be to provide for a method in which the prosecutor may waive the application of the death penalty in appropriate cases. There is a difference of opinion among prosecutors as to whether this may be done in the proposed legislation.

The issue of cost in implementing the death penalty has become a subject for debate. One source has estimated that there will be seventy capital murder trials each year in the State of Kansas as a basis for the cost figures. As long as prosecutors have the ability to use their judgment in deciding which of their first degree murder cases have sufficient evidence of aggravating circumstances to present to a jury, that estimate has to be exceedingly high. In Sedgwick County, we will file approximately ten first degree murder cases in an average year. From that number, I would estimate that perhaps one case per year would have the necessary evidence of aggravating circumstances to present to a jury. The remainder of the cases would be negotiated by plea to life in prison. If that estimate would apply statewide, I would imagine that a more realistic figure of between five and ten capital murder trials per year in the entire state would be a more accurate figure.

Furthermore, if the prosecutor has the authority to negotiate a plea to life in prison, it would probably require fewer jury trials than we presently have. Under existing State law, a defendant

Attachment #2
FSA 3/5/87

charged with first degree murder has no incentive to plead to the charges regardless of the strength of the evidence. The only incentive the prosecutor can presently offer is the reduction of charges to second degree murder which may not be appropriate in many circumstances.

If the prosecutor has the authority to take only strong cases of aggravating circumstances to jury trial, the increased cost of litigation of a capital case would be offset by the number of cases that would plead to life imprisonment that would otherwise have gone to jury trial under existing Kansas law.

II. House Bill 2062 as Amended

The amendments to the original bill as passed by the House of Representatives has unnecessarily added considerable costs to implementing the bill and provides for inconsistency in its application.

A. Limited Application for Felony Murder

The House amended House Bill 2062 to provide that the death penalty may be imposed for only selected felony murder charges. By limiting the application to only felony murders involving the underlying felonies of aggravated kidnapping, rape or aggravated criminal sodomy, the law would not be available for other felony murders that happen to involve especially aggravating circumstances.

For example, if a grocery store clerk is killed during an armed robbery, the death penalty will not ordinarily be available under the amended bill, even if there are other aggravating circumstances such as the defendant having prior convictions for murder or armed robbery. The reason for this is that the defendant in such circumstances would ordinarily be charged with felony murder rather than premeditated murder since it would be very difficult to prove that the robber entered the store with the premeditated intent to kill the store clerk. This also creates an inconsistency within the statute since robbery is an aggravating circumstance under New Section [8](3), but could be used only in charges of premeditated murder.

B. Dual Jury Trials

The House amended the bill to require separate trial and sentencing juries. The United States Supreme Court decisions do not require a special sentencing jury, but rather that the original trial jury be provided a separate sentencing hearing in which the defendant may introduce evidence of mitigation that was for various reasons not admitted for the issue of guilt or innocence.

The selection of a new sentencing jury would substantially increase the cost of a capital murder trial by extending the trial in selection of a second jury panel and reintroducing the circumstances of the crime. The case would essentially be tried twice.

Additionally, the bill was amended in New Section [5] so that a prospective juror in the guilt or innocence phase of the trial may not be challenged for cause based on the juror's view regarding capital punishment.

This will not provide for an impartial jury and will probably result in frequent hung juries caused by death penalty opponents. The original House bill provided for the correct criteria for the selection of jurors following the United States Supreme Court case of Wainwright v. Witt, (1985), 83 L.Ed.2d 841, 105 S.Ct. 844, where any juror may be excused if his views on capital punishment are deemed by the trial judge to prevent or substantially impair the performance of his duties.

C. Selection of Defense Attorney

The House amended the bill by adding New Section [28] which provides for the defendant to select any attorney of his choosing to be paid at the going rate for attorneys of his experience and expertise. This again added unnecessary cost to the bill and will not provide the intended result. The defense attorney would in effect be given a blank check to expend an unlimited amount of time and out-of-pocket expenses at premium rates and not be subject to the scrutiny of the court or a state agency for the reasonableness of the fee.

Under the existing system, the court has every reason to be assured that the appointed attorney will be competent to handle the complex nature of capital litigation. If the Public Defender or appointed attorney does not have the necessary experience to handle the case, it would make any conviction subject to attack on appeal for ineffective assistance of counsel.

III. Conclusion

The original version of House Bill 2062 as introduced is a far superior piece of legislation in both effectiveness and cost to the taxpayer. With the one suggested amendment to provide for prosecutorial discretion in selecting the appropriate cases to waive the death penalty, the cost of litigating capital murder cases will not be a significant factor.

DONALD P. SCHNACKE
1445 Westover Road
Topeka, Kansas 66604
(913) 273-1501

3/5/87
Attachment #3

December 29, 1986

Honorable Ed Reilly
1412 S. Broadway
Leavenworth, Kansas 66048

Dear Ed:

I would like for you and your committee to consider legislation that bars the sale and use of pellet guns in Kansas. I am convinced it is a problem that parallels that of bottle rockets.

It is reported repeatedly in the Topeka paper that car window breakage and property damage is done from the use of pellet guns. I am enclosing police reports in Topeka appearing in the paper December 28 & 29, 1986.

I can personally attest to recent damage around my residence. I've had two of my three yard lights shot out and just this past weekend, a side mirror on my car was shot out. None of this was reported to the police - so there has to be a lot more damage being done than is being reported.

It is being done by indiscriminate persons that have no regard for the property of others. Like bottle rocket legislation, there may be a legislative solution to slow it down.

With regards,

Sincerely,



Donald P. Schnacke

DPS:pp

Attachment #3
FSA 3/5/87

IDE - 12/25/84

It happened here

Emergency telephones

- Al-Anon Family Groups 235-9095
- Alcoholics Anonymous 235-6207
- Crimestoppers 234-0007
- DUI Hotline 1-800-332-7334
- Emergency mental health . 233-1730
- Fire 911
- Highway Patrol 296-3102
- Crime Hotline 1-800-KSCRIME
- Kansas Fish and Game 295-4444
- Medevac Ambulance 911
- Narcotics Anonymous 232-5683
- Parental stress hotline 233-3986
- Police 911
- Sheriff 911

Police report

The following incidents have been reported to local law enforcement agencies by the people or firms named.

- City**
- ✗ Pete B. Nygren, 3416 S.E. Golden, window broken on car at residence.
- ✗ Jack D. Gates, 227 Broadmoor, hatchback broken on car at residence.
- ✗ John H. Bicknell, 824 Rice Road, theft of spoked wheel covers from car at residence.
- ✗ Shirley A. Brown, 1836 Kansas Ave., theft of car residence; vehicle recovered.
- ✗ Edward S. Lowry, 217 Hawthorne, car spray painted while parked at 1037 Gage.
- ✗ Margaret L. Ayres, 1934 Buchanan, window broken on car at residence.
- ✗ KPL Gas Service Co., 200 W. 6th, theft of services at residence in 1200 block of Locust.
- ✗ Patricia L. Groyon, Junction City, window broken on car at 1632 Fillmore.
- ✗ Sandra L. Crawford, 1436 Byron, window broken on car at residence.
- ✗ James T. Smith, 2568 Kent, burglary of residence and theft of tool box containing tools and tackle box containing fishing tackle.
- ✗ Jim D. Ramberg, 1217 Western, window broken on recreational truck at residence.
- ✗ Claudia Adkins, 519 Locust, window broken on car at residence.
- ✗ John L. Freeze, 5837 S.W. 22nd Terr., attempted break-in to residence.
- ✗ Kathy D. Lutgen, 1775 E. 29th Terr., burglary of residence and theft of video cassette recorder, television set and watch.
- ✗ Dorothy K. Foster, 2412 Duncan Drive, car damaged by pellet gun fired as car passed 17th and Sims.
- ✗ Judith J. Brunton, 4565 Hoch Road, car damaged by rock or pellet gun as it passed 17th and Fairlawn.
- ✗ Walter L. Kennedy, 3920 Stratford Road, car window shattered by rock or pellet gun as car passed 17th and Green Acres.
- ✗ Lucy N. Graber, 1264 College, window broken on car at residence.
- ✗ Walter Wright, 1712 Fillmore, theft of two extension ladders from back yard.
- ✗ Kerry A. Hague, 202 E. 25th, burglary of garage and theft of property.
- ✗ Debra L. Sester, Wichita, burglary of car at 3800 Michigan and theft of camera bag containing camera and equipment.
- ✗ Paul G. Jennings, 2709 Arrowhead, burglary of vehicle at 29th and Fairlawn and theft of radio-cassette player and equalizer.
- ✗ Mary F. Stamper, 1025 High, burglary of residence and theft of television set and jewelry.
- ✗ Jimmie D. Franklin, 1024 Republican, told police he was driving by The Den, 1116 N.W. 17th, early Saturday when he saw his sister and a man arguing. Franklin told police that when he stopped and intervened, the man struck him in the head with an object. Franklin told police that when he took the object from the man, the man displayed a small-caliber handgun and fired several shots at Franklin. None of the rounds fired struck Franklin, and the man left the area before police arrived.
- ✗ Tonya D. Heaven, 2030 Pennsylvania, burglary of residence and theft of television set, video cassette recorder, cable television converter and video tapes.
- ✗ Scott M. Starr, 1151 Crest Drive, car dented and scratched at 3422 W. 12th.
- ✗ Delbert L. Keithley, 1220 W. 8th, burglary of garage and theft of snow blower.
- ✗ George S. Seachord, 835 Green, tires slashed on two vehicles at residence; one vehicle also broken into, but nothing reported missing.
- ✗ Sherry Hullum, 2447 Colonial Drive, burglary of residence and theft of stereo receiver, speakers, television set and video cassette recorder.
- ✗ George W. Watson, 824 Wabash, tires slashed on pickup truck at residence.
- ✗ Dean C. Myrick, 329 Winfield, tires slashed on two vehicles at residence.
- ✗ Mid-Mart House, 6000 W. 12th, burglary of business and theft of cash, checks and telephone.
- ✗ Topeka Body Works Inc., 410 W. 6th, burglary of business and theft of spray paint.

Hospital births

- Stormont-Vail**
- ✗ Mr. and Mrs. Sam Alvarez, Topeka, boy, Dec. 26.
- ✗ Mr. and Mrs. Stephen Moore, Topeka, boy, Dec. 26.
- ✗ Robbie and Denise Golder, Topeka, boy, Dec. 27.
- ✗ Mr. and Mrs. John T. Baker, Topeka, boy, Dec. 27.
- ✗ Mr. and Mrs. Richard A. McKee, Topeka, girl, Dec. 27.
- ✗ Mr. and Mrs. Rodney W. Ray, Topeka, boy, Dec. 27.
- St. Francis**
- ✗ Mr. and Mrs. Charles Dodson, Topeka, boy, Dec. 26.
- ✗ Mr. and Mrs. Brian Boos, Topeka, boy, Dec. 26.

There are no school menus to be published for this week, because local schools are not in session during the holiday.

Injury accidents

- City**
- ✗ 5:40 p.m. Friday, E. 10th and Indiana — a car driven by Frances J. Anderson, 41, 2211 E. 6th, was northbound on Indiana when it went through a T-intersection, jumped the curb, then struck a tree 33 feet farther north on the grounds of the Eastlawn Community Center, the accident report said. Police issued a citation to Anderson in connection with driving under the influence of alcohol, stop sign infraction, no driver's license, transporting an open container of alcoholic beverage or liquor and no proof of insurance. Anderson was released from custody after posting a \$1,000 signature bond. She is scheduled to appear Jan. 14 in Municipal Court. Anderson was reported injured, but refused treatment. No record of hospital treatment was found. Anderson was not wearing a seat belt.
- ✗ 8:22 p.m. Friday, 1200 block of Lane — a car driven by Damone A. Elliott, 19, 1327 Garfield, was northbound on Lane when it struck the rear of a car driven by Britt E. Byrd, 27, 1212 Mulvane, which was stopped at a traffic light facing north, the accident report said. Police issued a citation to Elliott in connection with inattentive driving. Byrd and his passengers, Brent W. Byrd, 24, same address, and Daniel D. Moore, 25, Irving, Texas, were reported injured, but no records of hospital treatment were found. None of those involved in the accident was wearing a seat belt.
- ✗ 2:07 p.m. Saturday, W. 12th and MacVicar — a car driven by Barbara L. Komala, 23,

It happened here

TDC
12-27-20

Hospital births

Stormont-Vail

Mr. and Mrs. Richard Appelhanz, Topeka, girl, Dec. 28.

St. Francis

Richard and Mary Alice Hutley, St. Marys, girl, Dec. 27.

Mr. and Mrs. Brian D. Swaim, Silver Lake, girl, Dec. 27.

Larry and Anita Gueary, Topeka, girl, Dec. 28.

Fire calls

Topeka

12:12 a.m. Sunday — 3122 Westover Road, electrical short in dishwasher, \$50 loss.

3:39 a.m. Sunday — 2424 W. 6th, fire in basement and office, \$20,000 loss, cause was incendiary. An incendiary fire is started by someone who knowingly damages property by fire or explosive without the consent of those who have an interest in the property or with the intent to injure a person or defraud an insurer or lien holder, a fire department dispatcher said.

The fire department made four first responder emergency medical calls between 6 p.m. and 6 p.m.

Soldier

6:47 p.m. Saturday — 1946 N.W. 35th, fire to vacant building, total loss, caused by vandals.

Pets

The following animals have been brought to the Helping Hands Humane Society, 2625 Rochester Road. The society is open from 11:30 a.m. until 5 p.m. Monday through Saturday and 2 to 4 p.m. Sunday. Telephone number is 233-7325.

Dogs

Male shepherd mix, white with cream ears, 5 months, found at 1100 Medford.

Male Chihuahua mix, tan, neutered, housebroken, found at 1332 W. 31st.

Female wirehair mix, charcoal and tan, red leather collar, found in Perry.

Female poodle mix, cream, 1 year old, found at 1000 MacVicar.

Male German shepherd mix, black and tan, 1½ years, neutered, housebroken, found at 2826 N.W. 39th.

Male mixed breed, brindle, blue studded collar, found at 2533 Moundview.

Two male terrier mixes, black, found at

1400 N. Logan.

Male collie mix, sable with white, tricolored, found at 80 Peppertree Lane.

Male beagle mix, tan, old, found in the 200 block of Polk.

Police report

The following incidents have been reported to local law enforcement agencies by the people or firms named.

City

Dugan's Equipment Co., Kansas City, Kan., theft of pickup truck from 4th and Lafayette.

C.K. Saylor, 1716 W. 27th, burglary of vacant residence at 1111 W. 7th and theft of items.

Edward Hester, 2410 Granthurst, burglary of garage and theft of lawn equipment.

Mark Williams, 3224 Girard, reported that someone broke out window of vehicle parked at residence.

A Cut Above, 1233 Huntoon, reported that someone broke out glass on front door of business.

Danette Linderman, 2500 N.E. Thomas, burglary of residence and theft of three radios.

Allen Lutz, 4521 N.E. Netherland Drive, burglary of car parked at 133 E. 29th and theft of items.

Dan Neely, 934 Wabash, burglary of car parked at residence and theft of items.

Joyce Calabrese, 1618 Central Park, burglary of storage warehouse at 620 Taylor and theft of items.

Linda Wilson, 1318 Buchanan, burglary of residence and theft of items.

Andre Williams, 2115 E. 11th Terr., burglary of car parked at 700 Jackson and theft of items.

Mary Costello, 920 W. 8th, someone cut all four tires on car parked at residence.

Lakeshore Learning Center, 2351 S.E. Bellview, reported that someone shot out window of van parked in the 2300 block of Bellview.

Patrick O'Conner, 1801 Lincoln, reported that someone shot out window of car parked at 1804 Lincoln.

Robert Robinson, 715 W. 11th, someone shot out window of car parked at 1112 E. 10th.

Vernice Zachariasen, Grantville, burglary of vehicle parked in the 1500 block of Lane and theft of items.

Lucy Hoyer, 5000 W. 22nd Park, burglary of residence and theft of items.

Vance Hubbell, 1800 W. 29th Terr., someone removed two wheels and trees from car parked at residence.

Richard Medley, 3913 S.W. 39th, burglary

of car parked at residence and theft of items.

Lindy Branson, 1328 N.W. Central, burglary of car parked in the 1700 block of Topeka Boulevard and theft of items.

Judith Stringer, 1146 Forest, reported that someone cut top of car parked at residence.

John Galloway, 1512 E. 7th, someone shot out windows of car parked at residence.

County

Loran George, 7013 S.W. 10th, theft of chain saw from shed.

Municipal court

Dec. 10

Vicky L. Wilder, 1300 Tyler, inattentive driving, \$25; no tag, \$10.

Vicky L. Wilder, 3415 Burnett, no proof of insurance, \$50.

Felipe A. Vallejo, 516 Topeka Blvd., 46 in 30 zone, \$20, paroled to pay \$10; driver's license required, \$50, paroled to pay \$15; transporting open container, \$25 and 5 days, paroled to pay \$20, paroled from days.

Thad G. Wallishear, 7116 Woodcroft, 31 in 20 (school) zone, \$22.

Billy R. Severson, 1142 Jewell, no proof of insurance, \$100 and 30 days, paroled from days.

Fred L. Steward, 1343 Western, driving with suspended driver's license, \$100 and 5 days, paroled from days.

Arthur N. Tardiff, Burlingame, driving with suspended driver's license, \$100 and 5 days, paroled from days.

Billy R. Stevenson, 1142 Jewell, driving left of center, \$20; illegal tag, \$50; driver's license required, \$50.

Billy R. Stevenson, 1142 Jewell, interference, \$25 and 5 days, paroled from days.

Elizabeth R. Sehr, 745 N. Winfield, giving false name, \$30 and 10 days, paroled from days.

James R. Sehr, 1620 Polk, dog at large, \$20.

Kathryn A. Planz, 1014 Medford, 33 in 20 (school) zone, \$26, paroled to pay \$15.

Douglas Newman, 1417 Lincoln, unsafe driving, \$25.

Leland S. Morris, 311 Country Club, interference, \$30.

Linda J. Murphy, 1530 Topeka Blvd., failure to notify police of striking unattended vehicle, \$15.

Dennis J. Miller, Jr., 2431 Candletree Drive, unsafe driving, \$35 and 5 days, paroled from days.

Melissa McElhaney, 3728 McClure, driving with suspended driver's license, \$100; 41 in 30 zone, \$15; illegal parking, \$10; plus 5 days, paroled from days.

MEMORANDUM

*Attachment # 4
3-5-87*

TO: Senator Ed Reilly
Chairman, Federal and State Affairs Committee
FROM: John Lamb
Director, Alcoholic Beverage Control Division
DATE: March 5, 1987
SUBJECT: Senate Bills 352, and 353

SENATE BILL 353

The ABC Division is opposed to the deletion of K.S.A. 41-206 and the deletion of the prohibition on beneficial interest in Section 2. Statutes which govern acceptance of gifts and gratuities by State employees are not sufficient for the ABC Division. The Director and Board members should not be permitted to own an interest in any part of the liquor industry. The ABC Division does, however, support amending K.S.A. 41-206 to allow an ABC employee to accept hospitality that is not specifically directed at the employee, such as meals at conventions, etc.

Proposed language - No member or employee of the board, the director or any employee in the office of the director shall solicit or accept, directly or indirectly, any gift gratuity, compensation or employment from any manufacturer, distributor, wholesaler, or retailer of alcoholic liquor or any person who is an applicant for any license or licensee under the provisions of this act, or from any officer, agent or employee thereof, nor solicit requests from or recommend directly or indirectly, to any such person or to any officer, agent or employee thereof, the appointment of any person to any place or position; and every such person, officer, agent or employee thereof, is hereby forbidden to offer to any member or employee of the board, the director, or any employee in the office of the director, any gift, gratuity, compensation or employment. Nothing shall prohibit a member or employee of the board, the director or any employee in the Division of the ABC from accepting hospitality, as promulgated by rules and regulations, that do not conflict with any part of Chapter 46 of Kansas Statutes Annotated.

If any member or employee of the board, the director, or any employee in the office of the director shall violate any of the provisions of this section, he shall be removed from the office or employment held by him. Every person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500, or shall be imprisoned not less than 60 days nor more than 6 months or be both so fined and imprisoned. Nothing contained in this section shall be construed as preventing the prosecution and punishment of any person for bribery as defined the criminal code of this state.

*Attachment #4
FSA 3/5/87*